

Phillips (John)

a. 5095.

Mr. Phillips's 5

LETTER

And

REPRESENTATION

To the Right Honourable the

Lord *HARCOURT.*

With an Account of the Cruel Treatment

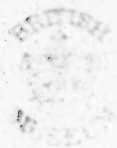
Mr. Phillips has met with from

Sir *JOHN WALTER* Bar^t.



L O N D O N :

Printed in the Year, 1721.





TO THE
READER.

I Have here in my own necessary Justification Publish'd the following Papers, to manifest to the World, that nothing has been wanting on my Part, to prevent things coming to the Extremity they have, and to shew the Oppression, and barbarous Imputations, I have so undeservedly met with from my Adversaries, especially, since some Great Men have condescended, to sollicite themselves in Person against me, without reason, and even, to the disadvantage of my Cause, and Character.

Besides the Reasons above mentioned, I am induc'd likewise to make this Publication, having no other way to obviate the unfair Suggestions, and Insinuations, which may otherwise remain with the Lords Spiritual and Temporal, to the great Prejudice of my Brethren, the

The P R E F A C E.

Clergy; by having my Behaviour and Proceedings misrepresented and blemish'd, and urg'd to alarm their Lordships, as an ill Precedent, and an Encouragement for Chaplains ungratefully to insult, and fly in the Face of their Patrons.

Whereas some Persons who were not present in Court at the Hearing of this Cause, have taken upon themselves to report, to my great Detriment, (viz.) That I have set forth Falshoods in the Case I have Printed and distributed to the Right Honourable the House of Lords; I therefore think myself oblig'd to publish the following Depositions.

As to any personal Attendance requir'd from me in the Performance of the said Lecture, I never had the least Notice directly, or indirectly, given me of it from any Person whatsoever; nor was this new thought of, and suppos'd Condition of a Personal Supply, ever mentioned, or insisted on, before Sir John and the Lady Walter put in their Answer to my Bill.





TO THE
 RIGHT HONOURABLE
SIMON Lord *HARCOURT*,
 THESE,

My Lord,

February 9th. 1718.

SINCE I find I am to entertain no Hopes of putting an end to the Unhappy Dispute between Sir *John Walter* and me, any other way than by Trying the Cause ; I desire that you would be pleas'd to give me the Liberty of Appealing to your Lordship in some Particulars, which my Council may judge necessary for me to Appeal to your Lordship in : For as you, my Lord, was the Person who drew the Deed, by which the Lecture of *Churchill* is settled on me for Life, Your Lordship can best Disprove and Obviate some Things which are Suggested, and Sworn to in Sir *John's* and the *Lady Walter's* Answer to my Bill, which they have no Foundation for.

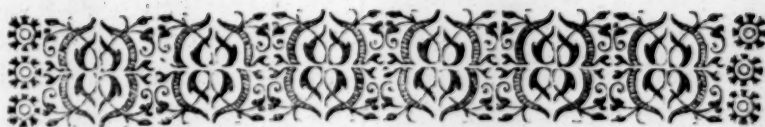
I think it my Duty to Request Your Lordship's Favour in this Affair, and to beg leave to remind you of some previous Circumstances, before the Cause comes to be heard, which possibly may have slip'd Your Lordship's Memory. I am with great Respect,

My Lord,

Your Lordships, &c.

John Phillips.





To the Right Honourable the
 Lord *H A R C O U R T*.

T H I S
 R E P R E S E N T A T I O N

Humbly Sheweth,

TH A T your Lordship very well knows,
 Sir *John Walter* remov'd Mr. *Butterworth*
 from the Lecture of *Churchill* for reporting, *viz.*
That he Sir John Walter, and his Brother Mr.
Robert Walter were both under such Disorders as are
not fit to mention, or to that Effect. I was necessi-
 tated to mention what I have above said,
 because Sir *John* and the Lady *Walter* in their
 Answer to my Bill both Swear, Mr. *Butterworth*
 was remov'd at my Request; which is the
 Reason of my Assigning the true Cause of
 Mr. *Butterworth's* Removal.

That I never Ask'd Sir *John Walter* to dis-
 pose of the said Lecture to me, till a long
 time after he had resolv'd to remove Mr. *But-*
terworth, and to give it to some one else; and
 particularly to Mr. *Vernon Junior*, then Curate
 at *Sarsden*.

That it was through Your Lordship's means, and the Interest of some other Friends, that Sir *John Walter* was prevail'd upon to give the said Lecture to me ; and it was by Your Lordship's Advice and Directions that I accepted it.

That at my Request, Your Lordship met and conferr'd with my Friend *Daniel Faucault*, Esq; a Council at Law, to satisfy both him and me, that as Mr. *Butterworth* had not obtain'd any Deed or Grant to the said Lecture under Hand and Seal ; it was in Sir *John's* Power to make me a good Title to it, and that your Lordship told me, you would take such care of me in Drawing the Deed, as not to Subject me to the Caprice and Humour of any one.

That it was from Your Lordship's own Mouth, that I came to the Knowledge of the Conditions and Nature of the said Lecture, as to the Salary, and when the Lord Chief Baron *Walter's* Original Settlement of the said Lecture comes to be Produc'd in Court, it will then appear from that Original Settlement, as well as from the Receipts of the several Lecturers given by them upon the Annual Payments they Received ; that the settled Income of the said Lecture is Fifty Pounds *per Annum*, clear of all Taxes and Deductions, and that Sir *John's* whole Estate is tied for the Payment of it.

That Your Lordship desired me to give Mr. *Butterworth* the Profits of the said Lecture for Nine Months after his Removal, which Desire of Your Lordship's I readily complied with ; in Regard that as he had been an Old Acquaintance of Your Lordship's, and a great Sufferer by losing his Place, Your Lordship shew'd your self pleas'd thereupon ; and said it would be some Comfort

to Mr. *Butterworth* to receive Two Hundred Pounds from Sir *John* at his going off, being the Arrears of Four Years; which Two Hundred Pounds at the Expiration of Nine Months, Mr. *Butterworth* Received without any Abatement for Taxes, &c. Mr. *William Dyston* and I were the Persons by whom Sir *John Walter* sent one of the Two Hundred Pounds to Mr. *Butterworth*.

That in taking Possession of the Lecture, I performed every Thing and Circumstance Your Lordship Directed me to do, nor was there any one Step taken by me in that whole Affair, but by Your Lordship's Advice and Appointment; nor could I get Your Lordship to Receive from me any Money for all your Pains and Trouble, besides a Trifle, which (in the beginning of this Affair) I perfectly forc'd upon you; so good a Friend was Your Lordship then to me.

That after I had been Two Years possessed of the said Lecture, I was Arrested for Forty Pounds, to which Action Sir *John Walter* very generously gave Bail, and at the same time advised me to withdraw, and absent my self forthwith from the said Lecture, 'till such time as I could by my Father's Assistance make things easy with my Creditors; but when I perceiv'd that was not to be effected; for my present Security, I went (but not without Sir *John's* Knowledge) to the Island of *Guernsey*, from whence, during my stay there, Sir *John* frequently hear'd from me, and it was entirely by his Leave and Approbation, that I continued afterwards abroad in her late Majesty's Service.

Now to bring this Home to Your Lordships Knowledge and Remembrance, I beg leave to remind Your Lordship,

That upon my Return to *England*, after I had been in *Denmark*, *Sweeden*, and *Holland*, (being Chaplain to the *Worcester* Man of War) I applied to Your Lordship to get me a Chaplain's Commission to One of the Five new Regiments which were then to be Rais'd; the Late Lord *Bolingbroke* being Secretary at War, Your Lordship used your best Endeavours to serve me, his Grace the Duke of *Shandois* and the Lord *Mansell* joining with you in the Recommendation; I had certainly succeeded by Your Lordship's, and the Interest of those other great Lords, had not those Chaplains Commissions been Disposed of to other Clergymen before Application was made in my Favour.

That altho' Sir *John Walter*, could not in Honour as he told me Write to Mr. *St. John* after the late Usage he had then met with from him at the *Woodstock* Election, yet Sir *John* wrote to Your Lordship in the most pressing manner to serve me with Mr. *St. John*, and it was by Your Lordship's Advice I went down Post to *Sarsden* to get Sir *John* to Write to Mr. *St. John* in my behalf; Your Lordship believing I had Influence sufficient with Sir *John* to induce him to it; this Your Lordship propos'd as a means whereby a Reconciliation between Sir *John* and Mr. *St. John* might be effected, and my Point secured; for Your Lordship told me that if the one could be prevail'd upon to Ask, the other would be glad to Grant the Favour, or to procure it for me some way or other, as Mr. *St. John* easily might, he being then Secretary at War.

That

That no Friend could be more overjoy'd upon seeing another, than Sir *John* Appear'd to be upon seeing me, after Twenty Months absence ; for after he had embraced me, as I sat by him at the Table, I perfectly remember, he laid his Hand upon my Shoulder, making use of this Expression, *viz. Let me Feel and Handle you, whether you are Flesh and Blood, or not.*

That altho' I could not succeed in being made Chaplain to one of those New Rais'd Regiments, yet soon after I got to be Chaplain to the Regiment Commanded by Colonel *Joshua Churchill*, with which I went into *Spain* ; at my return from thence (which was about Three Years afterwards) I laid before Your Lordship the inhumane Treatment, I had in my Absence met with from Sir *John*, without having given him any Grounds or Pretence whatever, with my Letter which I wrote to him upon that Occasion ; Your Lordship at that Time, at your own Chambers in the *King's Bench-Walks*, not many Weeks before you were made Lord Keeper, did not then pretend in any wise to justify or excuse Sir *John*, but told me withal, a Man of my Coat should not carry his Resentments too High, and as I was very well acquainted with Sir *John's* Temper, it was not to be expected he would be brought to do that by me, which the Bishop of *Salisbury* had oblig'd Colonel *Chiffers* to submit to, not long before, *viz. asking Pardon* : Your Lordship did at the same time assure me, you would Advise and Perswade Sir *John* when he came to Parliament, to make up, and agree the Difference between us.

That the Lady *Walter* soon after your Lordship was made Lord Keeper, endeavour'd to Unsettle Your Lordship in your good Inclinations towards me; what effect that had on Your Lordship, the enclos'd Affidavit which I made before a Master in Chancery, and sent to Your Lordship by Mr. *Dupper*, plainly shews, and from that very time Your Lordship has by several Acts shewn a dislike to me, and instead of accommodating the difference between Sir *John* and me, Your Lordship's Name at least, if not your Interest and Advice, have been made use of to support and countenance Sir *John* in his Proceedings against me, and with holding from me what I have a Right to.

That I can impute this violent Change in Your Lordship, only to my Lady *Walter's* warm Sollicitations, for 'tis plain, that from her has arose all this Strife and Contention; to give Your Lordship one Instance of it, which may be as convincing as a Thousand, viz. Mr. *Nicholas* was some time since (as he met Sir *John* in the House of Commons) pressing him in my behalf to an Accommodation, and telling him how glad he should be, if he could be instrumental in putting an amicable end to the Misunderstanding which had happen'd between Sir *John* and me, to which Request of Mr. *Nicholas's*, Sir *John* Answer'd in these Words, viz. saying, *Ned, I would do any Thing to Oblige you, but what would you have me do in this Case? Would you have me part with my Wife?*

That upon Mr. *Nicholas's* telling me what Sir *John* had said, (but not without Mr. *Nicholas's* leave) I went the next Day to my Lady *Walter's* Brother

Brother *Thomas Vernon* Esq; and told him what Sir *John* had said to Mr. *Nicholas*, which Surprized him very much, saying, *That he always thought his Sister Walter had had a very great Respect for me*: However, Mr. *Vernon* went immediately (as I desired him) to his Sister *Walter*, and told her Ladyship what Sir *John* had said to Mr. *Nicholas* upon my Affair; whereupon I desir'd him to tell her Ladyship, *that if she could lay to my Charge any one Thing, that could be prov'd, which I had either done or said to disoblige her; or that I had been Guilty of any immoral or indecent Behaviour for the Two Years I Lived in her Ladyship's Family; I would instantly quit all Claims and Pretensions to the said Lecture, which she had been putting Your Lordship and Sir John upon to contrive, and find out, (if possible) some means or other to deprive me of.*

That the Answer which the Lady *Walter* return'd me by her Brother Mr. *Vernon* was, *that she had nothing to say against me, that Sir John might do as he pleas'd, and that it was not from her Instigation, that Sir John had Acted as he had done by me.* Your Lordship best knows how far the Lady *Walter* is to be believ'd in this matter, for if her Ladyship had been so passive and indifferent upon what has happen'd, as she pretends by this Answer of hers, Your Lordship I dare say, wou'd never have given your self the Trouble, you did about putting in Sir *John* and the Lady *Walter's* Answer to my Bill, as appears from Mr. *Cottingham's* Letter to my Attorney, wherein Your Lordship's Name is particularly made use of upon that Affair, to quicken and induce Mr. *Mead* in the Drawing and Signing their Answer: Nor had Your Lordship taken the pains you did to Instruct Mr. *Hungerford* before you
left

left *London*, to oppose my Petition (for Sir *John's* Waving his Privilege) when it came to be preferr'd in the House of Commons. I can assure Your Lordship, that Mr. *Hungerford*, not above Three or Four Days before your Lordship got hold of him, had seen my Petition, and had declared to some of my Friends, that he would be for it, and that Sir *John* was acting a very cruel part by me; Mr. *Lambert* and Sir *George Pierce* Dined that Day with Mr. *Hungerford*, when they shew'd him my Petition, and spoke to him in my behalf.

That I had the Honour of Your Lordship's Conversation and Friendship all the Time I Lived at *Sarsden*, and even during the time I used idly to accompany Sir *John* to *Horse-Races* and *Cock-matches*; which tho' I have left for so many Years, yet those Crimes have occur'd of late so fresh and heinous to Your Lordship's Remembrance, as to make you speak of me, with Contempt and Prejudice to some of my *Great and Good Friends*, when in my behalf, they have been endeavouring to persuade Your Lordship and Sir *John* to put an end to this Law Suit, by referring it to Two Honest Gentlemen.

That the worst of my Enemies, and those who are without any just Reason the most bitter against me in their Expressions, cannot produce any single Instance, wherein I have behav'd with Disrespect and Ingratitude to my Benefactors, or with Unfaithfulness to my Engagements and Friends, but have at all Times (both at Home and Abroad) done my Duty, and Acted up to the Honour and Dignity of my Function.

That

That the Lady *Walter* her self, thought my Behaviour so Exemplary, whilst I liv'd in the Family, that she perswaded Sir *John* to offer Mr. *Alder* Two Hundred Guineas to Release him from his Promise of giving Mr. *Alder* the next Presentation to the Living of *Sarsden*, on purpose to conferr it on me ; I my self was the Person who was Commission'd both by Sir *John* and my Lady *Walter* to treat with Mr. *Thomas Tringbam* an Attorney at Law (who Lived in *Oxford* and was Mr. *Alders's* particular Friend) upon that matter. This was Sir *John's* and the Lady's own Voluntary Offer, and Proposal, without any Thought or Sollicitation of mine, to induce them to it. I can give several other Proofs both of Sir *John's* and the Lady *Walter's* Kindness and Respect, to the last Moment I liv'd in their Family.

My Demands and Title to the said Lecture never came to be Question'd till after I had been several Years possess'd of it, and long after my return from *Spain*, and the several Curates who from time to time supplied for me in my Absence, were pay'd and own'd by Sir *John* as my Curates, and received sometime Fifteen, sometime Twenty Pounds, *per Annum* for Officiating for me, the Remainder being kept to Pay my Debts, as it arose from the said Lecture ; as Sir *John* had often declared it should be, to several of my Friends ; and accordingly the Debt due to Sir *John* of Forty odd Pounds, which he paid himself, and some other, which I ow'd, were paid out of my Money arising from the said Lecture, amounting in all to about Seventy Pounds.

The only and supposed Reason which Mr. *Vernon* and some other of Sir *John's* Friends give for

for the Quarrel which has happen'd between Sir *John* and me, is, that the Letter I wrote to him carried in it, the Appearance of a Challenge ; those Words coming from a Clergyman could not admit of so unfair and forc'd an Interpretation, and 'tis likewise manifest, that Sir *John* himself did not receive them as such, for I never heard from Sir *John* on that Foot. I have at the bottom of this Representation subscribed the very Words of my Letter to him, on which the pretended Challenge is grounded.

That when the Cause comes to be heard, and my Case printed at large, and Sir *John*'s Letter and Treatment of me, it will then appear to the World, that no Man has been ever used with more Cruelty and Injustice (throughout the Whole Course of this Affair) than I have been.

London, December 29. 1708.

I Question not but that your Honour and Justice will put you upon making me the most Publick, I wish it were possible to be a sufficient Reparation, for the ill Consequences, of so foul an Aspersion.

Sir *John* at my Lord *Granville*'s, (Mr. *Clarke*, Mr. *Nicholas*, Dr. *Talden*, and others of my Friends then in Company,) was pleas'd to say That I had been hang'd in Spain for Fighting and Killing a Lieutenant, and had been Guilty of other Crimes, too Foul to be named.

My Affidavit.

Whereas it has been some time since suggested to the Right Honourable the Lord Keeper *Harcourt*, that I *John Phillips*, Clerk, Fellow of *New College* in *Oxford*, should say, that I was by his Lordship's Advice going to File a Bill in *Chancery* against

against the Honourable Sir *John Walter* and the Lady *Elizabeth* his Wife, for not accounting with me for Money due from my Lectureship of *Churchill*, and for detaining from me my Deed, by which the said Lectureship is settled upon me for Life.

I the said *John Phillips* do solemnly and upon my Oath declare, that I never said any such thing, nor had I ever any Reason or Pretence whatever to induce me to say it, it being my own Opinion, and the Opinion of my Friends, that I could by no means so effectually prevail with his Lordship to Vouchsafe me his Favour in accommodating the Unhappy Difference between Sir *John* and me, as by declining going to Law.

*To the Honourable Sir John Walter
Bart. at his House at Sarsden in
Oxfordshire, by the Chipping-Norton-
Bag.*

Honour'd Sir,

London, December 29. 1708.

I Have been inform'd by some of my Friends in Town, that you have reported in several Companies, that I was imprison'd in *Spain* for Sodomy, and for fighting a Lieutenant: these Imputations coming from a Person of your Honour, and Character, and to whom, I in Particular, have been so much oblig'd, have gain'd such Credit, as to be talkt of at least, if not believ'd, in very different, and distant Parts of the Kingdom; it has reach'd even the
Arch-

Arch-Bishop, before whom I've a Complaint lodg'd against two Officers for their ill Usage of me, in the discharge of my Office.

I'm surpriz'd to find you shou'd ever give so much Credit, to so Scandalous, and Groundless a Story, as to be quoted for the Reporter of it ; I have in my Justification got the Hands of all the Gentlemen of Distinction now in Town who have known me in Spain.

I question not but your Honour, and Justice will put you upon making me the most publick, I wish it were possible, to be a sufficient Reparation, for the ill Consequences, of so foul an Aspersion. I am, Sir, &c.

J. P.

For Mr. John Philips att Mrs. Saunders in Park-street, near the Cock-Pitt, Westminster.

Sir,

I Suppose when you Wrote that impertinett Letter, you was also Drunk, to add to the other of your pretty Qualifications, for if I had thought of you beyound the Seas I should have Awnswered your Letters but I give under my Hand I never thought of you till I did hear of that Scandelous Report from almost ere boddy having the Honor of being your Patron, and I must confess I did ask Ned Nicholas after it and he shook his Head, and I take God to Witnefs I thought you were Hang-ed before I saw you at London ; therefore if you have

have no other buisness spare your self the
Troble of Writing, and me the Postage.

January the 1th.

J. Walter.

London, December 28. 1708.

WHereas *John Phillips* Clerk, *A. M.* Fellow
of *New Colledge* in *Oxon*, and Chaplain
to the Honourable Colonel *Joshua Churchill's*
Regiment of Marines; upon his Arrival from
Spain, has been inform'd by several of his
Friends in *London*, that the Honourable Sir
John Walter of *Sarsden* in *Oxfordshire* has reported
in several Companies, and to very Honourable
Persons, that the said *John Phillips* was impri-
son'd in *Spain* for Sodomy, and for Fighting and
Wounding a Lieutenant; in Justification of him-
self from such black and unpardonable Impu-
tations, he has requested these Honourable
Gentlemen, to whom he was well known in
Spain, to subscribe the following Testimonial.

We whose Names are subscrib'd do declare,
that to the best of our Knowledge, and as we
verily believe, the said *John Phillips*, Clerk, has
very commendably, and exemplarily acquitted
himself in the publick Administration of his
Office. And that as to his private Behaviour
and Conversation, he has liv'd Modestly and
Virtuously, neither have we ever known the
said *John Phillips* charg'd with any Vice or Im-
morality, or of Fighting any Person whatever.

Charles Wills, General.

Charles Hotham, Brigadier.

David Ward, Lieut. Col.

Joseph De Launey, Lieu. Col.

Henry Walker, Major.

Joshua Churchill, Col.

M. Kempenfelt, Lieu.

Col.

*To the Reverend Mr. Phillips, Chaplain
to Colonel Churchill's Regiment of
Marines at Alicant.*

Sir,

Reus, March 14. 1708.

T'HO' I have not had Opportunities to Write to you, yet you have always been in my Thoughts, and I have been ever very desirous to do you Service.

The Order I have sent to Colonel *Sybourg* to send to *Tarragona* all the Officers and Soldiers, Marines, includes you. When with us, I'll take care to make it Advantageous to you with Major General *Wills*, who Commands the Marines, and any other kind Service in my Power you shall be sure of, being very heartily,

Sir, Your most Humble

and Faithful Servant,

George Carpenter.

To

To the Reverend Mr. Phillips, Chaplain at Alicant.

Sir, Barcelona, April, 14. 1708. N. S.

MAJOR General *Wills* has Writ to Captain *Bush*, and I have Writ to Collonel *Sybourg*, both are Positive for your having Liberty to come by the first Opportunity of a Ship either to *Tarragona*, or hither, your best will be to *Tarragona*, otherwise you must Embark again here to go there. I wish you a good Voyage. You will find *Wills* kind to you, and a hearty Welcome from,

Sir, Your Affectionate

Humble Servant,

George Carpenter.

To the Reverend Mr. Phillips, Chaplain in Alicant.

Sir, Barcelona, April 29. 1708. N. S.

BY this very good Opportunity you will have the Letters safe; this is the second time I have sent my Order to Collonel *Sybourg*, and Major General *Wills's* to Captain *Bush*, for your having Liberty to come to *Tarragona*, or hither. If you find no Opportunity soon-

C

es

er than the return of Captain *Walpole* from *Gibraltar*, I have spoke to him to bring you ; but if any of the Fleet call there before, you will come with them. 'Twill be for your Convenience to be set down at *Tarragona*, if any Ship calls there ; for I shall be there by that time, if not in the Field.

The Mareschal *Staremborg* is expected to be soon here.

Besides the Advantage I propose for you here, I shall be glad of your Company ; and we shall often talk of our *Oxfordshire* Friends, that I have so great a Value for. Give my humble Service to Collonel *Thornycraft*.

I am, S I R,

Your most Humble Servant,

George Carpenter.

Before I embark'd at *Barcelona* with the Marines Commanded by the Right Honourable Lieutenant General *Wills*, upon the Expedition against *Sardinia*, I went to *Cervera* to pay my Duty to my Lord *Carpenter*, by taking my Leave of his Lordship, and thanking him for the great Kindness and Favour he had shewn me in *Spain* ; whereupon his Lordship was pleased to give me the following Testimonial of my good Services, in order to apply to Her Late Majesty for some Preferment in Consideration thereof, when ever I return'd to *England* ; and accordingly upon such Application, Her Majesty was pleased to make me Chaplain to the Royal Citadel
of

of *Plymouth*, and took occasion from thence at the same time to appoint Chaplains to the Garrisons of *Berwick*, *Hull*, *Portsmouth*, *Langerfort*, and *Guernsey*, which had been discontinued for several Years; and an Estimate accordingly for that purpose was given in, and laid before the Parliament.

UPON my Order to Mr. *Phillips* to remove from *Alicant*, to attend a greater Detachment of Marines at *Taragona*, I receiv'd a Letter from Consul *Herne* there, wherein he recommended Mr. *Phillips* to me for his Becoming Behaviour, and good Living in the Discharge of his Office.

If Success attends our Army here, 'tis hoped the *Brittish* Factories in *Spain* will be made so happy as to be allow'd the Benefit of Chaplains; and of such Chaplains who have Liv'd and Approved themselves Abroad, to the Advantage and Credit of Our Religion. *

I have known Mr. *Phillips* several Years before he was a Chaplain in the Army, and ever since his Attending the Service: From my own Observation of him, and the Reports of other Officers, I recommend him for his experienced Virtues, to the Favour and Opportunities of Promotion.

I do this in Justice to Mr. *Phillips*, and that Respect may be shewn to those Chaplains who live well, and serve in the Army.

Camp at *Cervera*,
July 4. 1708.

George Carpenter.

DEPOSITIONS

IN

CHANCERY.

THE Right Honourable *Simon* Lord *Harcourt* deposeth, to the second Interrogatory, that he doth know *Churchill* in the County of *Oxon*, and hath known it several Years, and this Deponent hath heard and doth believe that a Lecture was settled by the Lord Chief Baron *Walter* (who was Great Grandfather to the Defendant Sir *John Walter*) to be preached within the Parish Church of *Churchill* aforesaid, on every *Sunday* in the Afternoon. But in what manner the Lecturers thereof have from Time to Time performed such Duty, this Deponent knoweth not, this Deponent having never been an Inhabitant of the said Parish of *Churchill*, nor to his knowledge at any time been within the said Parish-Church, and this Deponent hath heard and doth believe that a Stipend or Salary of Fifty Pounds *per Annum* hath been settled by the said Lord Chief Baron *Walter* for such Lecturer, and that the said Lord Chief Baron charged several Lands with the Payment thereof, which said Lands this Deponent doth believe are now in the possession of the Defendant Sir *John Walter* or his Tenants, and this Deponent doth the rather believe that such Stipend was so settled, because this Deponent hath heretofore seen and perused a Deed
whereby

whereby the Defendant Sir *John Walter* and others were Appointed Trustees for the Nomination of such a Lecturer as often as any Vacancy thereof should happen, in which said Deed this Deponent doth verily believe it is mentioned or recited when and in what manner the said Lord Chief Baron gave the said Lecture, and in what manner the Lecturer should from Time to Time demean himself and what Salary such Lecturer should have, and what Lands the said Chief Baron charged with the Payment thereof. But for more certainty this Deponent refers to the said Deed when the same shall be produced, the said Deed not having been in this Deponent's Custody for several Years last past, but delivered or sent by this Deponent's Order several Years since, to the Defendant Sir *John Walter* with many other Writings of the said Defendant Sir *John Walter's* which had been lodged with this Deponent for the said Sir *John Walter's* better Convenience to advise thereon as he should have Occasion; and this Deponent saith that to the best of his Knowledge he never was present at the Payment of the said Stipend or Salary or of any part thereof to any Lecturer whatsoever of *Churchill* aforesaid; but this Deponent hath heard that the said Stipend hath been from Time to Time pay'd by the said Defendant Sir *John Walter* and his Ancestors ever since the Gift thereof by the said Lord Chief Baron, and more materially he deposeth not to this Interrogatory.

To the Third Interrogatory this Deponent saith, that this Deponent doth not know whether any Deduction hath been made out of the said Stipend, on the Payment thereof to any

Person being or Officiating as Lecturer of *Churchill* aforesaid; any otherwise than as he hath heard the Defendant Sir *John Walter* say, that he conceived he had a Right to deduct the Land Tax out of such Payments, and that he had accordingly made such Deduction on several of such Payments: But this Deponent cannot say, whether the said Defendant Sir *John Walter*, named the particular Lecturer or Lecturers from whom he had made such a Deduction; But this Deponent saith, that he knows not, nor hath he ever heard that any such Deduction hath at any Time been made in respect of any Parochial Rates or other Taxes besides the Land Tax as aforesaid; nor hath this Deponent ever heard the said Defendant Sir *John Walter* mention any Right he had to make any other Deduction out of the said Stipend: But what Deduction the said Sir *John Walter* may at any Time have made on Payment of the said Stipend to any such Lecturer aforesaid, by Vertue of any Agreement with him, with respect to his Board or otherwise, this Deponent knoweth not, nor any more deposeth to this Interrogatory to his now best remembrance.

To the Fourth Interrogatory this Deponent saith, that in the Year One Thousand Six Hundred Ninety Seven, this Deponent was sent for by the said Defendant Sir *John Walter* to come to him to his House at *Sarpsden* near *Churchill* aforesaid: And this Deponent then went thither accordingly, and the said Sir *John Walter* at that time acquainted this Deponent with the general State of his Affairs, and then consulted, and for several Years after as he had Occasion continued to consult this Deponent thereupon;

thereupon; and this Deponent farther saith, that he very well remembers that when this Deponent was at the said Defendant Sir *John Walter's* House at *Sarsden* aforesaid, in the said Year One Thousand Six Hundred Ninety Seven, and at several Times after, Mr. *James Butterworth* in this Interrogatory named was very frequently at the said Defendant's Sir *John's* said House, and as this Deponent apprehended was or Officiated as Chaplain there; and he the said Mr. *Butterworth*, as the said Defendant Sir *John Walter*, the said Mr. *Butterworth*, and others have often told this Deponent, was then Lecturer or Officiated as Lecturer of *Churchill* aforesaid, and had so done for several Years before that Time, having been nominated or appointed to Preach the said Lecture in the Life-time of Sir *William Walter*, who was Father of the Defendant Sir *John Walter*, but by whom or in what manner he was so nominated this Deponent knoweth not; and this Deponent further saith, that the said Mr. *James Butterworth* (as this Deponent believes) continued to Officiate as Lecturer in the said Church until he was succeeded by the Complainant; and this Deponent saith, that he doth well remember that the said *James Butterworth* was very uneasie at his being interrupted or removed from Being or Officiating as Lecturer of the said Church; but for what Reason the said Mr. *Butterworth* was removed this Deponent doth not know any otherwise than as is hereafter mentioned: And the said Complainant being some time before the said removal of the said Mr. *Butterworth* much conversant with the said Sir *John Walter*; the said Sir *John Walter* and the Complainant were each of them very

desirous that the said Mr. *Butterworth* might be removed from the said Lecture, and succeeded therein by the Complainant, and each of them often discoursed with this Deponent thereupon, the said Defendant Sir *John Walter* being much dissatisfied at that Time with some past Behaviour of the said Mr. *Butterworth*: But this Deponent doth not remember that the said Complainant or Defendant Sir *John Walter* ever mentioned any Cause to this Deponent why the said Mr. *Butterworth* should be removed; save that to the best of this Deponent's Memory, it was then apprehended and alledged by the said Complainant and Defendant, that the said Mr. *Butterworth* had been barely nominated to be or Officiate as Lecturer by the said Sir *William Walter* only, and not by the Trustees, by Deed in Writing under their Hands and Seals, in pursuance of the Trust created by the said Lord Chief Baron *Walter*: And for that Reason, as this Deponent believes, the said Mr. *Butterworth* was removed from or interrupted in his Officiating in the said Lecture by the Nomination of the Complainant thereunto: And this Deponent hath often heard as well from the said Mr. *Butterworth* as from the said Sir *John Walter*, that the said Stipend was from Time to Time duely paid to the said Mr. *Butterworth* by the said Sir *William Walter* in his Life-time, and after his Death, by the said Defendant Sir *John Walter*, or by their respective Agents or Bailiffs during the time of his the said Mr. *Butterworth*'s Officiating in the said Lecture, and more materially he deposeth not to this Interrogatory.

To the Fifth Interrogatory this Deponent saith that some time in or about the Year of our Lord
One

One Thousand Seven Hundred and One, to the best of this Deponent's Memory, this Deponent was Desired by the Defendant Sir *John Walter* to prepare the Draught of a Deed for appointing the Complainant Lecturer of *Churchill* aforesaid, in pursuance of the Trust before that time Vested in the said Sir *John Walter* and others for that purpose, and this Deponent doth believe that he did accordingly prepare some Draught of such a Deed, but whether any Deed was Executed by the Trustees therein named, according to such Draught prepared by this Deponent as aforesaid, this Deponent doth not know, having not to his Memory been a Witness to the Execution of any such Deed by any or either of the Trustees therein named, but saith he believes that the Complainant hath been nominated to be Lecturer of the said Parish Church of *Churchill*, by Sir *Robert Burdett*, and the Defendants Sir *John Walter* and *Robert Walter* by Deed under their Hands and Seals, this Deponent having seen a Deed or some Writing purporting to be a Deed at the Defendant Sir *John Walter's* House at *Sarsden* aforesaid, within Two or Three Years last past. But at what certain Time, this Deponent doth not remember, in or by which said Deed or Writing the Complainant is mentioned to have been nominated such Lecturer, and in which said Deed several Interliniations then appeared to this Deponent to have been made, but whether such said Deed had been Executed by any of the Parties thereto, or when or by whom such Interliniations were made, this Deponent knoweth not. But saith that he verily believes such Interliniations were not made from the Draught prepared by this Deponent,

Deponent or with his Privy. But as to the particular Contents of the said Deed this Deponent referreth himself to the said Deed or Writing it self ; and more materially he deposeth not to this Interrogatory.

To the Ninth Interrogatory this Deponent saith, that within a little Time after the Complainant was nominated Lecturer of the said Church, he did absent himself from the said Parish, and Preaching the said Lecture as this Deponent hath heard, but at what particular Time he so began to absent himself, this Deponent doth not remember, nor can this Deponent of his own Knowledge say for what Reasons or upon what Account the said Complainant so absented himself. But saith that this Deponent having Occasion to be frequently conversant with the said Sir *John Walter*, and in his Family about that Time hath often heard from the said Defendant Sir *John Walter* and others in his Family, that the Complainant had contracted such great Debts that he was forc'd to absent himself for Fear of his Creditors, and this Deponent farther saith that as he remembers he hath formerly heard the said Sir *John Walter* expresse his concern thereat, and that he had upon the Complainant's being arrested, procured him to be discharged by being or procuring sufficient Bail for him, or Payment of the Money for which he was Arrested. And that he had advised him thereupon without delay, to apply himself to his Father to pay his Debts. But this Deponent saith that he doth not know or remember, nor hath he ever heard that the said Defendant Sir *John Walter* or any of the other Defendants gave any other Advise, Assistance or
Consent

Consent whatsoever to the Complainant touching his Absenting himself from the said Parish or Preaching the Lecture aforesaid. And more saith not to this Interrogatory.

To the thirteenth Interrogatory this Deponent saith, that this Deponent doth not remember that he hath at any time heard the said Defendant *Sir John Walter* Express any Approbation of the Complainant's absenting himself from the said Lecture; but this Deponent hath often heard him the said Defendant *Sir John Walter*, in discourse of the said Complainant express his dislike thereat, before this Deponent ever heard the Complainant returned and offered himself to perform his Duty of Lecturer; But at what Time or on what Occasion such Discourse happened, or on what Terms the said Defendant *Sir John Walter* expressed such dislike, this Deponent at so great a distance of Time cannot remember, nor any thing more deposeth to this Interrogatory.

To the fourteenth Interrogatory this Deponent saith, that he knoweth not when, by whom, or in what manner the said Defendant *Sir John Walter* notified his dislike of the said Complainant or first declared he would remove or did remove the said Complainant from being Lecturer: But saith, that he hath often heard the said Defendant *Sir John Walter* declare that the said Complainant had been removed from being Lecturer of the said Parish, because he had for some Years absented himself from Preaching the said Lecture in the said Parish of *Churchill*; and that he thought the Trustees were for that Reason obliged to remove the said Complainant, or express himself to that Effect: But in what manner

manner the said Complainant was removed, or when the said Complainant first returned after his said Absence, and offered to Preach the said Lecture, or in what manner the said Lecture was supplied during the said Complainant's said Absence by his Deputy, or whether the said Complainant did depute any Person or Persons to supply the same during his said Absence, this Deponent knoweth not, nor any more deposeth to this Interrogatory, to his now best Remembrance.

To the fifteenth Interrogatory this Deponent saith, that to the best of his Memory he never heard the said Defendant Sir *John Walter* at any time pretend or mention any Right he or the Trustees had to displace the said Complainant, from the said Lectureship; unless for Neglect of his Duty, nor mention any other Reason for the removal of the said Complainant from being Lecturer; or for the appointment of another Person to be Lecturer in his Place, than the Complainant's Neglect of his Duty and absenting himself from the said Lecture, without any just Excuse for a very long Time, for which Reason the said Sir *John Walter* hath declared to this Deponent, or in this Deponent's hearing, that the said Complainant had been removed, and that he the said Sir *John Walter* and his Brother, who were the surviving Trustees, had nominated another Person to succeed him; and more saith not to this Interrogatory.

To the Sixteenth this Deponent saith, that he hath heard that the said Complainant some considerable Time after he absented himself from the said Lecture was Chaplain in a Man of War, but whether he really was so, or when he

he was at first Appointed to be Chaplain this Deponent knoweth not, nor doth this Deponent know when the said Defendant Sir *John Walter* was first apprized thereof. But this Deponent hath heard the said Defendant Sir *John Walter* in discourse concerning the Complainant, and of his having been at Sea in the Queen's Service say, that if the said Complainant had been in such Service, it was not till long after his the said Complainant's absenting himself or departure from the said Lecture; and this Deponent farther saith, that he doth not remember whether the Defendant Sir *John Walter* made any Application to any Person for any other Preferment to be conferred on the Complainant and more saith not to this Interrogatory.

To the Seventeenth Interrogatory, this Deponent saith that he doth not know, nor hath he heard as he remembers that the said Defendant Sir *John Walter* did give or Promise any House in *Sarsden* to the said Complainant, or make any Promise or Declare any Intention to settle any House whatsoever on the said Complainant for any Time or Term whatsoever, but saith there is a little Room or two in an Out-House near adjoyning or belonging to the Mansion House of the said Defendant Sir *John Walter* at *Sarsden* which were reputed heretofore to have been made use of by the Bailiff or Steward of the said Sir *John Walter* or his Ancestors, and this Deponent farther saith, that as he remembers the said Complainant whilst he Officiated as Lecturer of *Churchill* aforesaid, lived with the Defendant Sir *John Walter* for some time in his House in *Sarsden*, but the said Complainant thinking it
might

might be more Convenient for him to remove out of the said Defendant's House, and Lodge in the said Steward's Rooms, desired the said Defendant *Sir John Walter* to give him the said Complainant leave at his own Charge to fit up the same, as this Deponent hath been often informed as well from the said Complainant as the Defendant. And this saith that he believes the said Complainant was at the Charge of Wainscoting one of the said little Rooms in a very plain manner. And that the said Complainant was at some other small Charge in fitting up the said two Rooms, but what such Charge amounted to, this Deponent knoweth not, nor doth this Deponent know of any Promise or Assurance made by or given by the said Defendant *Sir John Walter*, to the said Complainant for his the said Complainant's holding or enjoying the said two Rooms or either of them for any time whatsoever but this Deponent doth believe the Complainant depended upon the good Will and Favour of the said *Sir John Walter*, and that the said *Sir John Walter* would have allowed him the Use of the said two Rooms so long as he should have continued Lecturer of *Churchill* aforesaid, the said two little Rooms being of little Use or Convenience to the said *Sir John Walter*, and more saith not to this Interrogatory.

To the eighteenth Interrogatory this Deponent saith, that he doth not know, nor to his Remembrance hath heard, nor can set forth any other matter or thing that may be of use or service to the Complainant in this Cause, but as he hath before deposed.

Edward

E*Dward Dupper* of the Parish of *St. Clements Danes*, Gent. deposeth and saith to the First Interrogatory, That he this Deponent doth know the Complainant *John Phillips*, Cler^r and Sir *John Walter*, Bart. one of the Defendants in the Title of the Interrogatories named in this Cause of the said Complainant, this Deponent hath known for above Twenty Years last past, and the said Defendant Sir *John Walter* he hath known somewhat longer; and more saith not to this Interrogatory.

To the Fourth and Fifth Interrogatories this Deponent saith, that this Deponent doth remember Mr. *James Butterworth* in this Interrogatory named, a good many Years ago a Lecturer of the Parish of *Churchill* in the County of *Oxon*, or Officiating there as such (to wit) before the Appointment of the Complainant Mr. *Phillips* to the same; but how long the said Mr. *Butterworth* was or had been Lecturer there this Deponent cannot set forth: And this Deponent saith that he doth believe that the said *James Butterworth* did not voluntarily Quit, but was removed by the Defendant Sir *John Walter* from the said Lectureship, to make room for the said Complainant to come into and supply the same, but for what other Reason the said Mr. *Butterworth* was removed therefrom this Deponent knoweth not nor can set forth, but as he hath heard it was to put the said Complainant in his Place; and this Deponent further saith, that this Deponent doth not know of any Grant in Writing, that the said Mr. *James Butterworth* had for the said Lectureship, nor by what Grant

or Title he had or Held or Claimed the same for any Time, but this Deponent doth believe that the said *James Butterworth* had a Salary or Allowance paid or made to him by the said Defendant Sir *John Walter* in respect of such Lectureship when he served in or supplied the same, but how much such Salary or Allowance was, or when or how often paid to him the said Mr. *Butterworth* or what in particular was at any time payed to or received by him on Account thereof, either during his Continuance in the said Lectureship or after his being removed from the same, this Deponent cannot set forth, save that about the time of the said Mr. *Butterworth's* being removed from the said Lectureship, and of the said Complainant being Nominated and Appointed thereto, this Deponent doth believe he heard it said as well by the now Right Honourable the Lord *Harcourt*, then *Simon Harcourt Esq;* as by the Defendant Sir *John Walter*, that the said Mr. *Butterworth* should have more Money paid him than was due to him on Account of the said Lectureship, when he was removed therefrom, and this Deponent doth believe that he was paid more Money than was actually due to him, on Account of the said Lectureship when he was removed from it, some time after his removal, in consideration of his Circumstances, but how much the said Money was, or how, when or by whom it was to be payed to the said Mr. *Butterworth*, this Deponent cannot at this distance of Time recollect or set forth, and this Deponent further saith, that this Deponent doth believe that the Complainant Mr. *Phillips* was Nominated or Appointed Lecturer of *Churchill* afore said,

aforesaid, by Sir *Robert Burdett*, the said Defendant *Sir John Walter* and his Brother *Robert Walter* by Deed in Writing, he this Deponent having engrossed such Deed of Nomination or Appointment, and this Deponent believes that the said Deed after it was Engrossed by this Deponent was sent into the Country by the Carryer in order to be Executed by the said several Parties, and this Deponent was not present when the same was Executed by them or any of them to his present remembrance, and this Deponent having lately seen the said Deed of Nomination or Appointment so Engrossed by this Deponent as aforesaid, and the same being now produced and shewn to him at this the time of his Examination, he this Deponent doth believe that since the said Deed was Engrossed by this Deponent there have been several Alterations and Interliniations made in the Ingrossment thereof by another Hand, this Deponent having compared such said produced Deed with the Draught that this Deponent first Engrossed the same by, and such said Alterations and Interliniations in the said Ingrossment are not of this Deponent's Hand Writing, and this Deponent saith that he Engrossed the same in the Thirteenth Year of his late Majesty King *William* the Third, and the Deed now bears Date the Sixteenth of *March* in the first of Queen *Ann*, but this Deponent believes that some short time after the said Deed was sent into the Country Engrossed as aforesaid, the said Lord *Harcourt* then *Simon Harcourt* Esq; to whom this Deponent was then Clerk, did call to this Deponent for the said Draught of the said Deed, and on perusal thereof, did say it was

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Wrong

Wrong for that it should have been to the said Complainant Mr. *Phillips* for his Life, or to that Effect, and the said now Lord *Harcourt* afterwards wrote into the Country to the Defendant Sir *John Walter*, as this Deponent apprehended to have the said Deed altered accordingly, but by whom the said Alterations and Interliniations or any of them were made, this Deponent knoweth not, not being acquainted with the Hand Writing thereof, nor with the Hand Writing of the Memorandum Endorsed on the said Deed, touching the Interliniations made in the the 6th and 7th Lines from the Bottom, but this Deponent saith that the Endorsements on the said Deed [of Sealed and Delivered by the within named Sir *Robert Burdett*, and Sealed and Delivered by Sir *John Walter* and his Brother *Robert Walter*] were both wrote or Endorsed thereon, by this Deponent, before the said Deed was sent from *London* into the Country to be Executed as aforesaid, and this Deponent believes the said Grant or Appointment of Lecturer aforesaid, was intended to the said Complainant for his Life, and the rather for that the Defendant Sir *John Walter* was then acquainted with the Complainant, and used to be at his Chambers with the said Lord *Harcourt* in *New Colledge* in *Oxon*, at Entertainments there, and this Deponent hath heard the said Sir *John Walter* express himself well pleased with the said Complainant. And this with what will best and further appear in and by the said produced Deed of Nomination or Appointment it self, whereto this Deponent for greater certainty refers, is all that he can materially depose

depofe to thefe two Interrogatories to his now beft Remembrance.

To the 7th Interrogatory this Deponent faith, that this Deponent cannot fet forth in what manner or with refpect to any particular Perfons Consent or Approbation, the Complainant after his Grant of and Admiffion to the faid Lecturefhip, did difcharge his Function as Lecturer, and as to any Omiſſion or Neglect of his duty as Lecturer there, and alfo as to any Objection or Objections made by any Perfon or Perfons againſt the Complainant in Relation to his not having Qualified himſelf according to Law for the faid Lecturefhip this Deponent knows nothing thereof.

To the Eleventh Interrogatory this Deponent faith, that this Deponent doth not know by what Curates, and in what Manner, or by whose Order, Direction or Appointment and for whose Benefit or in whose Name, during the Abſence of the faid Complainant the faid Lecturefhip was ſupplied, nor whose Curates or Deputies any Curates ſupplying the faid Lecturefhip in the Complainant's abſence did Claim to be, nor what Right Title or Claim ſuch Curates or any of them did make or pretend to the faid Lecture, nor at what time the Complainant did firſt return after his abſence from the faid Lecturefhip, but this Deponent faith that he doth believe that the Complainant was abſent from the faid Lecturefhip and heard that in the time of ſuch abſence he was a Chaplain abroad either in the Army or in the Fleet, and that he had leave of the Defendant Sir *John Walter* to be ſo abſent, and this Deponent hath heard the ſame in the faid

Defendant Sir *John Walter's* Family, and particularly from the said Sir *John Walter's* then Bailiff, Mr *Ball*, and that the said Complainant was in Debt and that the Defendant Sir *John Walter* had suffer'd him the said Complainant to go abroad to get what he Could, that as much of the Profits of *Churchill's* Lecture aforesaid as could might be saved for or towards the Discharge of his the said Complainant's Debts or to that Effect, but who have or hath done the duty of the said Lecture since the Complainant's return from abroad, or for what reason the Complainant hath been denied the Liberty of Officiating in the said Lecture, this Deponent knoweth not nor can set forth nor any thing more Material depose to this Interrogatory to his now best remembrance.

To the Thirteenth Interrogatory this Deponent saith, that this Deponent hath heard and doth believe that the Complainant went abroad and absented himself from the said Lecture with the said Defendant Sir *John Walter's* Consent as aforesaid, but this Deponent doth not remember that he hath heard the said Sir *John Walter* at any time express either his approbation or dislike of such the said Complainant's absence, nor any thing more Materially deposeth to this Interrogatory, to his now best remembrance.

To the Fourteenth Interrogatory this Deponent saith, that this Deponent doth not know when, by whom, or in what manner, or for what reason the Defendant Sir *John Walter* Notified any dislike to the Complainant, or that he had or would remove him from the said Lectureship, nor when nor upon what pretence nor in what Manner the Complainant was turned out therefrom nor can this Deponent any thing Depose to

to any of the Questions contained in this Interrogatory to his now best remembrance.

To the Fifteenth Interrogatory this Deponent saith, that this Deponent doth not know nor Remember that the said Defendant Sir *John Walter* expressed any thing to this Deponent, nor doth this Deponent know what he the said Defendant might express to any other Person in Relation to the Complainant's removal from the said Lectureship or in Relation to his the said Defendant's, Right or Authority to turn the said Complainant out of the same, nor any thing depose to this Interrogatory to his now best remembrance.

To the Seventeenth Interrogatory this Deponent saith, that after the said Complainant was appointed Lecturer of *Churchill* aforesaid, and before he went Abroad this Deponent doth remember him, the said Complainant have a little House or Dwelling-Place, near to or belonging to *Sarsden House*, the Seat of the Defendant Sir *John Walter*, in the County of *Oxford*; which said little House was then called the Complainant's Mr. *Phillips's* House, and the said Complainant took this Deponent into it, and shewed the same to this Deponent; and the same was new fitted or done up, and made a very handsome Dwelling-Place, and the said Complainant then told this Deponent, that the said Defendant Sir *John Walter* had given him the said little House or Apartment; to have him the said Complainant near him, and also that he the said Complainant might in such House be when he pleased retired by himself and private for his Study, and this Deponent always took it that the said Complainant was

to have such House or Apartment for his Life, but what the said Defendant Sir *John Walter* hath at any Time promised or expressed in Relation thereto, this Deponent doth not know nor can set forth, nor any thing more depose to this Interrogatory to his now best Remembrance.

To the Eighteenth Interrogatory this Deponent saith, that this Deponent doth not know, nor to his present Remembrance hath he heard, nor can he set forth any other Matter or Thing that may be of Use or Service to the Complainant in this Cause ; but as he hath before deposed, to the preceding Interrogatories or some of them to his now best Remembrance.

John *Griffin*, Clerk, First Sworn and Examined on the Defendant's Behalf, and now Sworn and Examined on the Complainant's Behalf deposeth,

To the Second Interrogatory this Deponent saith, that the Duty that has usually been performed by the Lecturers of *Churchill* interr' is and usually hath been preaching once every *Sunday*, in the Afternoon after Evening Service ; and saith, that the Salary of Fifty Pounds *per Annum* is settled on the Lecturer of *Churchill* Interrogate, as this Deponent believes ; and this Deponent saith, that Mr. *Hinkesman* told this Deponent, that he had or was to receive of the Defendant Sir *John Walter*, after the Rate of Fifteen Pounds *per Annum* for the Time that he served at *Churchill* aforesaid, which was till some time in *November*, One Thousand Seven Hundred and Four. And this Deponent knows
of

of no other Payment of the said Salary or any Part thereof for Officiating in the said Lecture, save only the Payments which have from Time to Time been paid to this Deponent, for the particulars whereof he doth refer himself to his Deposition taken of the Defendants part, and this Deponent believes that Mr. *Sturges* the present Lecturer, hath ever since he hath been possessed of the said Lecturship, received for his Salary Fifty Pounds *per Annum*, Taxes deducted; and saith, that during the time he this Deponent was Lecturer of *Churchill* aforesaid, there was deducted out of his said Salary, so much in the Pound as was Assessed upon Lands by Act of Parliament for the several Years this Deponent possessed the said Lecture.

To the Ninth Interrogatory, this Deponent saith that he believes that the Defendant Sir *John Walter* did give consent to the Complainant's Absenting himself for his own safety, but for how long time this Deponent cannot set forth. And this Deponent is the more induced to believe the same, for that the said Defendant Sir *John Walter* had so great Regard for him as a Clergyman, that he would not willingly have him exposed by Reason or on the Score of his Debts.

To the Eleventh Interrogatory, this Deponent saith during the Absence of the Complainant the Lecture interr' was supply'd by this Deponent, and Mr. *Hinkesman*, and Mr. *Sturges*, or others whose Names this Deponent knowes not. And this Deponent saith, that he and the other Persons as he believes did supply the Lectureship interr' by the Order of the Defendant Sir *John Walter*, but for the Benefit

of the Complainant, and saith that the Overplus over and above this Twenty Pounds *per Annum* was lookt upon by this Deponent to be for the Benefit of the Complainant untill such Time as this Deponent was Appointed Lecturer by Grant under the Hand and Seal of the Trustees for the said Lectureship which bears Date the Four and Twentieth Day of *March* One Thousand Seven Hundred and Nine. And this Deponent saith, that he this Deponent did not Question but that the said Complainant was rightful Lecturer there till about a Quarter of a Year before such this Deponent's Appointment as aforesaid. And that no one pretended any Title to the said Lecture, till this Deponent's said Appointment. And this Deponent further saith, that he believes the Defendant Sir *John Walter* did some time in *August* in the Year One Thousand Seven Hundred and Ten, send to the Complainant after his return to require him to desist from Officiating the said Lecture at *Churchill* aforesaid, for that he had no Right to the same.

To the Fourteenth Interrogatory saith that he doth not know that the Defendant Sir *John Walter* did give any Notice to the Complainant that he would remove him from the Lecture of *Churchill* interr', and saith that he doth not know that the said Sir *John Walter* did remove the said Complainant from the said Lecture in any other manner than by granting it this Deponent which this Deponent saith he believes was done by Reason of the Complainant's so long Absence. And this Deponent saith, that till such Time as this Deponent was Appointed Lecturer in his own Right, by the Grant of the
Trustees

Trustees aforementioned, he did supply the same according to the best of his Ability, and hopes according to the true Intent of the Donor.

John *Plasheed* of *Oxford* deposeth to the seventh Interrogatory and saith, that after the Complainant's Return from *Spain*, or some other parts beyond the Seas, he this Deponent did often wait upon the Complainant to *Churchill* aforesaid, and heard him Preach there at least Ten times; and that he was well received by the Inhabitants of *Churchill* aforesaid when he came to perform the said Lectureship, and was never objected against as this Deponent knows of, nor doth he know that ever the Complainant was denied preaching at *Churchill*.

William *Eustace* of *Elleston* in the County of *Stafford*, Clerk, deposeth and saith to the Ninth Interrogatory, that about a Year and a half after the Complainant's admission to the Lectureship Interr' the said Complainant as he has heard did absent himself from the same by reason of his Debts, and saith that it was the Common Report of *Churchill* Interr' and *Oxford* that the Defendant Sir *John Walter* did consent to the Complainant's absentsing himself as aforesaid.

To the Eleventh Interrogatory this Deponent saith, that after the Complainant's return from beyond Sea, which was about Seven or Eight Years after the Complainant's first absentsing himself as this Deponent has heard and doth believe, the said Complainant did as he has heard supply
the

the said place himself sometime, but how long he cannot tell, and saith that he the Deponent did for about Ten or Twelve Weeks supply the said Lectureship by the Order, Direction and Appointment of the said Complainant, who also paid him for such Service without any Interruption of, or by the said Defendant Sir *John Walter*, or any other Person or Persons whatsoever.

H*ugh Smith* of *Wantage* in the County of *Berks*, Gent. Deposeth and saith to the Eleventh Interrogatory, that he did by the Complainant's Order procure one *Mr. Jones* to supply the said Lecture for one *Sunday*, and *Mr. Thomas Hawes* for Five *Sundays*, for which this Deponent paid the said *Mr. Jones* the sum of Eight Shillings, and the said *Mr. Thomas Hawes* the Sum of Two Pounds Ten Shillings, which said two several Sums were repaid this Deponent by the Complainant *Mr. Phillips*; and this Deponent saith that he doth not know of any interruption or denial of any Person employed by the said Complainant to Officiate the said Lecture, save only that the abovementioned *Mr. Thomas Hawes* did tell this Deponent upon the Receipt of the last Money for Officiating the said Lectureship that he did not care for undertaking the same any more, for that he found difficulty in procuring the Pulpit.

Abraham

A *Brabam Bully*, Gent. first sworn and examined on the behalf of the Defendants, and now sworn and examined on the Complainant's behalf, deposeeth to the Fourteenth Interrogatory, that about the latter end of the Year One Thousand Seven Hundred and Nine, he this Deponent was ordered by the Defendant *Sir John Walter* to draw up and prepare a Deed or Instrument for the Nominating of *John Griffin*, Clerk, to be Lecturer of *Churchill* in the County of *Oxon*, which Deed was prepared by this Deponent, and afterwards executed by the Defendants *Sir John Walter* and *Robert Walter*, and as this Deponent believes by *Sir Robert Burdett* in the said Deed named, and that sometime after the Execution of the said Deed (but how long this Deponent cannot remember) he this Deponent by the Order of the Defendant *Sir John Walter*, gave the Complainant Notice that the said *Mr. Griffin* was appointed to Preach the said Lecture.

G *Forge Hacker* of the Parish of *Churchill*, Gent. first Sworn and Examined on the part of the Defendant, and now Sworn and Examined on the Complainant's behalf, deposeeth,

To the Eleventh Interrogatory, that the Lectureship of *Churchill* aforesaid ever since the Absence of the Complainant until the time of his Return was supplied by *Mr. Griffin*, or others appointed by him, to the best of this Deponent's Knowledge. And saith that the Complainant or others appointed by him did Officiate the said Lectureship, for about Two or Three Months after his the said Complainant's Return;
and

and that the Defendant *Sturges*, or others appointed by him have supplied the said Place ever since. And farther saith, that he doth not know that the Complainant was by any Person hindered in Officiating in the said Lecture, but was told by Mr. *Hales*, the Defendant Sir *John Walter's* Bailiff, that he and one Mr. *Abraham Bulley* came into the Church-Yard of *Churchill* aforesaid, on purpose to discharge the said Complainant Mr. *Phillips* from Officiating the said Lecture, but the said Complainant did not come there that Day as he the said Mr. *Hales* and Mr. *Bulley* came to *Churchill* aforesaid, or any Day since, to this Deponent's Knowledge.

R *Ichard Vernon* of *Bourton* on the Water in the County of *Gloucester*, Clerk, deposeth,

To the Third Interrogatory, that he doth not know that any Deduction or Abatement out of the said Stipend of Fifty Pounds *per Annum* has been made by Reason of Taxes, or Rates, or any other Consideration untill the said Lectureship was conferred upon Mr. *Griffin*; since which time the Land-Tax has been deducted, as this Deponent hath been informed out of the said Salary or Stipend; but saith that at the time of Mr. *James Buttiterworth's* being possessed of the said Lectureship the said Stipend was paid without any Deduction or Abatement whatsoever, and saith that he doth believe that the said Deduction was made by the said Defendant Sir *John Walter* for his own Advantage.

To the Seventh Interrogatory this Deponent saith that the Complainant did discharge the Duty of Lecturer of *Churchill* as this Deponent hath heard and doth believe to the Content

tent and Approbation of the Defendant Sir *John Walter* and his Lady.

To the Ninth Interrogatory this Deponent saith, that he hath heard and believes that the Defendant Sir *John Walter* did consent to the Complainant's departing from his said Lecture-ship to prevent the Complainant's being Arrested for Debts; for that as he this Deponent has been informed the said Sir *John Walter* did pay or promise to pay the Debt for which the said Complainant was Arrested at the time of his Departure from his said Lectureship.

To the Eleventh Interrogatory he saith that he this Deponent hath heard that the said Lectureship was supplied in the Complainant's Absence by the Order Direction and Appointment of the Defendant Sir *John Walter*, and that it was so supplied by the said Mr. *Griffin* as Curate to the Complainant; and believes that the said Mr. *Griffin* claimed nothing in the said Lectureship in his own Right, but as Curate to the Complainant. And that the Complainant after his Return did Officiate the said Lecture himself, and some other *Sundays* some other Persons sent by the Complainant did Officiate for him.

William *Diston*, of *Chadlington* in the County of *Oxon*, Esq; deposeth,

To the Third Interrogatory, that he hath heard the Stipend of Fifty Pounds *per Annum* has been paid without any Abatement for any Taxes whatsoever.

To the Eighth Interrogatory this Deponent saith, that he believes the Complainant did continue in the Execution of his Duty as Lecturer for about the space of Two Years; during

ring which Time this Deponent did not hear the Defendants, or either of them, make any Complaint that the Complainant had not performed his Duty as Lecturer of the said Lecture-ship.

To the Ninth Interrogatory this Deponent saith, that he believes that the Complainant about Two Years after his Admission to the said Lecture did absent himself from the same by reason of his Debts; and saith that he believes the Defendant Sir *John Walter* was countenancing and consenting to the said Complainant's Absenting himself, by reason the Defendant Sir *John Walter* did pay or promise to pay some of the Complainant's Debts at the Time of such his Departure.

To the Thirteenth Interrogatory he saith, that some time after the Complainant's Departure from his Lectureship, this Deponent believes that the Defendant Sir *John Walter* was well pleased that the Complainant had gone off and scaped his Creditors, and that he was sorry for the *Necessity* of it.

M*ary Castile* the Wife of *Samuel Castile* of *Chipping Norton* in the County of *Oxon* deposed,

To the Thirteenth Interrogatory, that she was a Servant to the Defendant Sir *John Walter* at the Time of the Complainant Mr. *Phillips's* First Absenting himself from his Lectureship at *Churchill*, and saith that she never knew that the said Defendant Sir *John Walter* said any thing about the Complainant's absenting himself, but saith that she knows the Defendant the *Lady Walter* was very well pleased therewith.

N. B.

N. B. *The Defendants Sir John and the Lady Walter in their Answer to the Complainant's Bill, both swear, that neither of them knew till several Years after the Complainant had absented himself, that he was gone into her late Majesty's Service; or had any manner of Notice thereof from the said Complainant, or any other Person whatsoever: And that they really believed he was run away for fear of his Creditors, and would not any more return to perform the said Lecture.*

William Beauvoir of the City of Gloucester Dr. in Physick, deposeth, to the Thirteenth Interrogatory, that some Time in *May* or *June* in the Year One Thousand Seven Hundred and Four, upon this Deponent's carrying and delivering a Letter from the Complainant (who was then retired into the Isle of *Guernsey*) to the Defendant *Sir John Walter*, this Deponent having never had any Acquaintance with the said *Sir John* before that Time, was very kindly received by the said *Sir John Walter*, who in Discourse blamed the said Complainant for running in Debt; yet upon the whole this Deponent apprehended that the said *Sir John Walter* rather approved than disapproved of the Complainant's Absenting himself from the Lectureship of *Churchill* Interrogate.

To the Sixteenth Interrogatory the Deponent saith, that he doth believe that the Complainant *Mr. Phillips* in the Year One Thousand Seven Hundred and Four went aboard the *Worcester* Man of War as Chaplain in the said Ship in the Service of her late Majesty *Queen Anne*, and this Deponent is the rather induced
so

so to believe, for that this Deponent did receive what he apprehended to be a Commission for that purpose, from Dr. *Brathwayte* then Warden of *New-Colledge* in *Oxford*, which this Deponent remitted to a Friend of his at *Southampton* to be delivered to the Complainant : which this Deponent supposes was delivered to the Complainant accordingly.

In *August 1703*. the Complainant went away from *Sarsden*, and in *May 1704*. sent the following Letter to Sir *John Walter* by Dr. *Beaurvoir*, mentioned in his Deposition.

Monsieur,

J'Avoüe, que la langue *Francoise* est belle, & élevée, que ses Graces nous touchent, extrêmement & que ses Beautés nous ravissent infiniment : Cependant, la Sterilité de cette langue, aussi bien que de toutes les autres, est telle, que je ne puis Exprimer par elle, la Grandeur de vôtre amitié, ni la qualité des Faveurs que j'ay reçu de Vous, ni vous en témoigner ma Reconnoissance, & ma Gratitude Suivant mon devoir.

Quoyque Je sois éloigné de votre Compagnie, Vous etes Toujours présent a mon coeur, en tout ceque je dis, où fais, car quand je vais dans, la Société des gens, je me Souviens, combien je suis destitué de l'agréable & doncce raillierie, & de l'Esprit avec lequel Vous Soutenez, & relevez la Conversation en tous lieux, & en toutes Rencontres.

D'autrefois, quand je suis tout seul, où affligé dans le Chagrin, & l'ennui, mais il n'est point aucune Circonstance de cette Vie, tant facheuse, tant epineuse, & tant amere, que le souvenir de votre amitié, l'esperance d'etre aupres de vous, ne puissent adoucir.

Et

Et si J'étudie, tout ce que Je lis dans les Auteurs, les plus celebres, & les plus polis de la France, Sur la politesse des mœurs, de l'esprit, de la Discretion, de la Complaisance, des manieres bonnêtes, de la Sincerité, Je vois là Vòtre Portrait, mais non pàs avec le dernier coup de pinceau.

Je Soubaite, que vous puissiez vivre long temps heureux dans Sarsden, cet autre Heden, où vous avez une espouse qui est la plus belle, & la plus aimable personne du monde ; S'il-y eut eu tant de vertu, tant de Sagesse en Eve, le Serpent n'auroit pù jamais la Seduire ; ou Si elle eut eu autant d'amour, & autant d'affection que Madame Vòtre Femme, a pour vous, elle n'auroit point tenté Son Mari.

Je puis Temoigner que vous êtes le meilleur des maris, & le meilleur des Amis, & je suis avec zele, & respect,

Monsieur,

Vòtre tres Humble, tres
Obeissant Serviteur.

Joan Phillips.

Monsieur,

Je Vous Supplie de faire mes tres humbles Complimens à Madame Walter, & l'assurer de mes Obeissances.

A Guernzey premiere Jour de May, 1704.

E *Lizabeth Diston, of Churchill in the County of Oxon, Spinster, deposeth,*

To the Ninth Interrogatory, that she hath heard that the Complainant at his Departure was carried off upon a Horse of the said De-

E

fendant

feſdant Sir *John Walter's*, and ſaith that ſhe never heard that the ſaid Sir *John* was ever diſpleaſed with him for ſo doing, or that the Complainant came unfairly by the ſaid Horſe.

T *Thomas Hampton* of *Dennington* in the Pariſh of *Shaw* in the County of *Berks*, Cordwayner depoſeth,

To the Ninth Interrogatory this Deponent ſaith, that he believes the Defendant Sir *John Walter* did conſent to the ſaid Complainant's Departure, and aſſiſted him therein, for that the Complainant's Servant told this Deponent that the Horſe upon which his Maſter the Complainant came from the Defendant Sir *John Walter's* to *Newbury* upon his abſenting himſelf from his ſaid Lectureſhip, was the ſaid Defendant's Sir *John Walter's* Horſe.

S *Amuel Drayton* of *Killingworth* in the County of *Warwick*, Barber, depoſeth,

To the Seventh Interrogatory, ſaith, That he this Deponent was Servant to the Complainant, and hath often waited upon him to *Churchill* after his Admiſſion to the Lectureſhip Interr' And the manner of performing his Duty therein was by Preaching, and by Reading the Common-Prayer before ſuch Preaching on *Sundays*, he hath ſeveral times heard him perform on *Sundays*, but how often this Deponent cannot ſet forth; and ſaith, that as far as this Deponent hath heard or knows, the Inhabitants and Pariſhioners of *Churchill* aforeſaid were very well pleaſed

pleased with such the Complainant's Performance as aforesaid.

To the Ninth Interrogatory this Deponent saith, That the Reason of the Complainant's so absenting himself was because he was in Debr, as this Deponent believes; and farther saith, That the Night before the Complainant went off from *Sarsden* interr' he came to this Deponent and told him that the Defendant Sir *John Walter* advised him to go off for fear of farther Debts coming upon him, having been arrested before; And the Defendants Sir *John Walter* and *Robert Walter* gave a Bond for the Complainant, which was afterwards paid by the said Defendant Sir *John Walter*, as he believes; and this Deponent saith, that the Complainant went off upon a Horse of the Defendant Sir *John Walter's*, which the Complainant told this Deponent was lent him by the said Sir *John Walter*, and for the Reasons aforesaid this Deponent doth believe, that the Defendant Sir *John Walter* was consenting to the Complainant's going off.

Martin Sandys of the City of Worcester, Esq;
deposeth,

To the Twelfth Interrogatory this Deponent saith, that he this Deponent being acquainted with the Defendant Sir *John Walter*; at the time the Complainant lived with him the said Defendant, and had as this Deponent understood and apprehended a Lectureship of a Place called *Churchill*, under or of the Gift or Grant of the said Defendant; soon after the said Complainant retired from the said Defendant's

House, and went as this Deponent believes abroad out of *England*, which to the best of this Deponent's now Remembrance and Belief of the Time was upwards of Thirteen Years ago ; but sure this Deponent is, it was during the said Complainant's Absence from his said Lectureship, he the said Complainant being indebted to this Deponent in the Sum of One Hundred Pounds, or thereabouts, by Bond, this Deponent then meeting with the said Defendant, acquainted him of such this Deponent's said Debt due from the said Complainant ; and the said Defendant then replied to this Deponent, that he the said Defendant had some Debts to pay at or near Home ; by which this Deponent understood and believes the Defendant meant Debts of or due from the Complainant to Servants or Neighbours of the Defendant, and that when such Debts were paid, he the said Defendant would take some care of this Deponent, or to that Effect ; and more saith not to this Interrogatory.

To the Thirteenth Interrogatory this Deponent saith, that the Defendant, in what Discourse passed between him and this Deponent touching the said Complainant, or his Absence from his said Lectureship, did not seem to this Deponent to shew any Dislike of the said Complainant's so absenting himself, and more saith not to this Interrogatory.

To the Seventeenth Interrogatory this Deponent saith, that some time before the said Complainant first went away or retired from the said Defendant's House, or from the said Lectureship, he this Deponent went to the said Defendant's House at *Sarsden*, designing a Visit
to

to him, but the Defendant, as this Deponent was informed, not being then at Home, this Deponent found or met with, the Complainant there; and the same Day the Complainant took this Deponent to and shewed him a little Place or an Apartment near to the said Defendant's House at *Sarsden* aforesaid, where this Deponent saw there had been then newly done Wainscotting, Flooring, Painting and Beautifying to or in the said little Place or Apartment, to a pretty considerable Expence or Cost, and which the said Complainant then told this Deponent, was all done at his own Charge; and this Deponent doth believe that the Complainant would not have been at such Expence or Charge, without he had received some Encouragement or Assurance of continuing there; and more saith not to this Interrogatory.

N. B. *The Complainant borrowed the said Sum of one Hundred Pound of the said Martin Sandys, Esq; on purpose to build and fit up the said Tenement at Sarsden, and did accordingly lay out the said Sum on the same Tenement.*

N *Athaniel Clift of Sarsden in the County of Oxon Free Mason, deposeth,*

To the Seventeenth Interrogatory, that he this Deponent hath heard that the Defendant Sir *John Walter* gave to the Complainant a little House or Tenement containing two Rooms near the said Defendant Sir *John Walter's* House in *Sarsden*, then call'd Mr. *Phillips's* and now Mr. *Griffin's* Chambers. That the Complainant did lay out and expend in Beautifying or Repairing the said House or little Tenement the

Sum

Sum of Sixty Pounds and upwards, according to the best of this Deponent's Judgment.

N. B. Sir *John* and the Lady *Walter* in their Answer, swear that the Charge whereof they conceive could not Amount to more than Ten or Twelve Pounds.

Richard Vernon, Clerk, to the Seventeenth Interrogatory deposeth, that he hath heard and doth believe, that the Defendant Sir *John Walter* did give to the Complainant a little House in *Sarsden* near the Defendant Sir *John Walter's* House there, containing Two Rooms, called Mr. *Butterworth's* Chambers, but for what Estate or Interest therein, this Deponent cannot set forth. And this Deponent is the rather induced to believe that the said Sir *John Walter* did give the Complainant the said little House for that the said Complainant laid out and expended several Sums of Money in Repairing and Beautifying the same, but what Sum or Sums of Money the said Complainant did lay out and expend in Repairing and Beautifying the same, this Deponent cannot set forth.

Stephen Hanks of *Sarsden* in the County of *Oxon*, Yeoman, deposeth,

To the Seventeenth Interrogatory, this Deponent saith, that he hath heard it commonly reported that the Defendant Sir *John Walter* had given to the Complainant a little House or Tenement commonly called the Doctor's Chambers, near the said Defendant's House in *Sarsden* for the Term of his Life. And this Deponent saith that the Complainant Walled in a little Court
near

near the said little House or Tenement, and the same also lies near this Deponent's House there; And the said Complainant also made some Sash Windows, Wainscoted a Room, dug a Cellar, and alter'd a Chimney, and did several other things in and about the said little House, but what Money the said Complainant might lay out or expend in and about the same this Deponent cannot set forth.

William Rollinson of Chadlington in the County of Oxon, Esq; deposeth,

To the Fourth Interrogatory this Deponent saith, that this Deponent did know Mr. *James Butterworth* in this Interrogatory named, and this Deponent knew him the said Mr. *Butterworth* when he officiated as Lecturer of *Churchill* in the County of *Oxon*, which was a good many Years ago; but certainly how long since, this Deponent cannot at this Distance of time recollect or set forth; and this Deponent hath credibly heard and doth believe, that the said Mr. *Butterworth* did not voluntarily quit, but was constrained or obliged by the said Defendant Sir *John Walter* to leave the said Lectureship; but for what Reason he was constrained so to do this Deponent cannot set forth.

To the Seventh and Eighth Interrogatory this Deponent saith, that after the said Complainant was deemed to be in the Possession of the said Lectureship, and during the time of his Residence at *Sarsden* aforesaid, he this Deponent visiting there, was frequently in the said Sir *John Walter's* and the Complainant's Company, and this Deponent did not in that time hear of
any

any Difference or Disagreement between the said Defendant Sir *John Walter* and the Complainant in any respect, nor of any Complaints of the said Defendant Sir *John Walter*, or of any other Person against the Complainant touching any Omission or Neglect of his Duty as Lecturer aforesaid, nor of any Objection made against him in relation to his not having Qualified himself according to Law for the said Lectureship ; but on the Contrary, in the said Time the said Defendant Sir *John Walter* seemed to this Deponent altogether to approve of the said Complainant, and of his Conduct, and shewed and expressed an extraordinary Fondness of, and Kindness towards him, and this Deponent was an Eye Witness to the good Agreement, Harmony and Friendly Correspondence that then seemed to be and to continue between the said Complainant and the Defendant Sir *John Walter*. And more materially this Defendant cannot depose to these Two Interrogatories, or either of of them, to his now best Remembrance.



F I N I S.



INTERROGATORIES to be Exhibited to
*Witnesses to be Produced, Sworn and
 Examined on the Part and Behalf of
 John Phillips, Clerk, Complainant ;
 against Sir John Walter, Bar^r. and
 others, Defendants.*

I. *Imprimis.* **D**O You know the Parties, Com-
 plainant and Defendants, or
 any or either, and which of them, and how
 long have you known them, either, or any
 of them?

II. *Item.* Do you know *Churchill* in the Coun-
 ty of *Oxon*, what kind of Lecture is there
 settled, and and at what Time, and by whom
 was the same settled? what Preaching or other
 Divine Service or Duties, or ought to be or usu-
 ally has been performed by the Person Entituled
 to or Placed in such Lecture; on what Day or
 Days of the Week, and at what Time or Times
 on such Day or Days ought such Preaching and
 other Divine Service to be and usually hath
 been performed; and at what Yearly Stipend
 Revenue or Income is settled upon such Lecture-
 ship and by whom was the same settled, and
 by and to whom and how often and at what
 Time or Times have you known such Stipend
 F Revenue

Revenue or Income or any part and how much thereof paid, what Lands and other Hereditaments are charged with the Payment thereof, who doth or hath Received the Profits of such Lands or other Hereditaments, and from or for what Time?

III. *Item.* Do you know that any, and what Deduction or Abatement hath been made from or out of such Stipend Revenue or Income settled on or Paid or Payable to such Lectureship or Lecturer on Account of any and what Land Taxes Parochial Rates or other, and what kinds of Taxes and Rates or other Consideration Cause or Account whatsoever, at what Time or Times, and when first and how often, and from what Lecturer or Lecturers by Name, or other Person or Persons by Name Claiming or Entitled to or Officiating in such Lectureship, hath such or any other and what Deduction or Abatement been made, and on what Account or for what Reasons and on what Inducements, and by whom and for whose Use Benefit Profit or Advantage was such Deduction or Abatement agreed to or complied with or objected against?

IV. *Item.* Do you know or have you heard any thing of Mr. *James Butterworth* being Entitled to or Officiating in the Lecture aforesaid; for any, and how long a Time did the said *James Butterworth* quit or was he removed from the said Lectureship, and by whom, at whose Desire or for what Reason did he so quit or was removed therefrom; Had the said *James Butterworth* any Grant in Writings or otherwise for the said Lectureship, or by what other Title did he Claim the same and for how long a Time,
and

and had the said *James Butterworth* any and what Payment or Allowance made to him in respect of such Lectureship, and by and from whom and by whose Directions at any time or times and when and how often, either during his Continuance in the said Lectureship or after, and how long after his quitting or being removed from the same how much in particular was paid to or received by the said *James Butterworth*, and from whom, in respect of or on Account of each Years Salary, or otherwise on Account of the said Lectureship?

V. *Item.* What do you know concerning the Complainant's being Nominated or Appointed Lecturer of *Churchill* aforesaid, and by whom was he so Nominated, and in what manner was such Notation or Appointment made; was it by Deed Grant or how otherwise, did you ever see such Deed or Grant, where and when did you see the same, was you present when the same was Executed, did you see the same Executed, by whom did you see the same Executed, did you subscribe your Name as a Witness thereto, when and at what Time, for what Term or Time were such Grant made to the Complainant?

VI. *Item.* Did the Complainant or any other Person, and who by Name at any Time and when, make any and what Demand or had any and what Discourse concerning the said Grant or Deed in the next precedent Interrogatory mentioned, or the Delivery thereof from or with any and which of the Defendants in this Cause, in whose Custody or Power as you know or believe was the said Grant or Deed when such Demand was made or such Discourse happened,

and what are the Reasons or Inducement of such your Knowledge and Belief, at what time or times and when first and how often have you known or heard of any such Demand or Discourse, and was there any and what Objection made against the Delivery thereof by any of the said Defendants and which of them, and on what Account and for what Reason and for what End Intent and Purpose, and what are the Reasons of such your Knowledge or Belief?

VII. *Item.* Do you know in what Manner and to and with what Persons Content and Approbation the Complainant after his Grant of and Admission to the said Lectureship did discharge his Function as Lecturer, and of what Place was you an Inhabitant and to what Place of Divine Service did you usually go at the time of such Grant or Admission, and for what time after at what time or times or when and how often have you known or heard the Complainant Read the Common-Prayer or Preach at *Churchill* aforesaid, what was the usual manner of his Praying or Preaching, have you known him at any time, and when and how often and when first Guilty of any and what Omission or Neglect of his said Duty as Lecturer, have you at any time or times and how often and when first heard any and what Objection or Objections made and by what Person or Persons against the Complainant in relation to his not having Qualified himself according to Law for the said Lectureship, and what was the general Estimation of the Country in relation thereto?

VIII. *Item.* How long did the Complainant continue in the Performance and Execution of his

his Duty as Lecturer of *Churchill* aforesaid, and in what manner do you know or believe that such his Performance of his Duty as Lecturer during his Continuance at *Churchill* as aforesaid was aproved or disapproved by the said Defendants or any and which of them? declare the Reasons and Inducements of such your Knowledge and Belief.

IX. *Item.* Did the Complainant at any Time, and how long after he had Officiated as Lecturer aforesaid, absent himself, for any and what Reasons, and upon what Account do or believe that the Defendants or any and which of them gave any and what Advice Consent or Assistance in Relation to Complainant's so absenting himself? declare the reasons of such your Knowledge and Belief.

X. *Item.* Do you know of any and what Promise or Undertaking made by the said Defendant Sir *John Walter* in Relation to the supplying of the Duties of the said Lectureship, or the Management of the Profits arising therefrom during the time that the Complainant should be absent therefrom, or for and other Time, to what End Intent or Purpose was such or other Promise or Undertaking by the said Defendant Sir *John* in relation to the said supply of the said Management of the said Profits made?

XI. *Item.* By what Curates by Name and in what Manner and by whose Order Direction or Appointment, and for whose Benefit and in whose Name during the Absence of the said Complainant was the said Lectureship supplied, whose Curates or Deputies did such Curates Claim to be and what Right Title or Claim did

any and which of such Curates make or pretend to the said Lecture, at what Time did the Complainant first return after his Absence, who have done the Duty of Lecturer after Complainant's said return, was Complainant at any Time or Times and when first and how long after such Return and by whom and for what Account and for what Reason denied the Liberty of Officiating in the said Lecture, and how long did Complainant so Officiate after such Return or such Denial?

XII. *Item.* What Debt or Debts of Complainants have been discharged by the said Defendant Sir *John Walter*, and on what Account for what Consideration and of what Estate Salary or Income and in pursuance of what Promise or Engagement did the said Defendant Sir *John* Pay the same or any of them, and what Promise or Discourse have you known made by the said Sir *John Walter* in Relation to any other of the said Debts of the said Complainant, and to whom or with whom?

XIII. *Item.* What Approbation or Dislike did the said Defendant Sir *John* shew at the Complainant's so Absenting himself, and in what manner did he express the same and when and upon what Occasion and when first, was the same before or after Complainant's first Return?

XIV. *Item.* When by whom in what manner and for what Reason did Defendant Sir *John Walter* Notifie his dislike to Complainant, and that he had or wou'd remove him from the said Lectureship, in what manner and at what time and upon what pretence did the Defendant turn the Plaintiff out therefrom, was the same before

before or after Complainant's said first Return, in what manner was the same supplied by the Complainant or his Deputies before such time, when the said Defendant Sir *John Walter* took upon himself to turn out the Complainant from the same, in what manner upon what pretence and by whose order, upon what Complaint by Virtue of what Authority or pretended Authority, for what Faults or pretended Faults of the Complainant's, with what Force or Violence was the same Executed?

XV. *Item.* Do you know or can set forth what the Defendant Sir *John Walter* hath himself expressed to you or any other Person in relation to the Complainant's said Removal, or in relation to the Defendant Sir *John Walter's* Right or Authority to turn the Complainant out of the said Lectureship?

XVI. *Item.* Do you know at what Time the Complainant Mr. *Phillips* went into her late Majesties Service as Chaplain to the *Worcester* Man of War, what do you know in relation to the Defendant Sir *John Walter's* being apprized thereof, do you know of and what Application made by the said Defendant Sir *John* for any other and what Preferment to be conferr'd on the Complainant, at what Time or Times or to whom was such Application made, how long before or after the Complainant's said Absence from his Lectureship?

XVII. *Item.* Do you know or have heard that the Defendant Sir *John Walter* did give or promise to the Complainant any and what House in *Sarsden*, and declare any and what Promise and Intention to the settling the same upon the Complainant for some and what Time or Term, did the Complainant lay out any and what

Sums of Money in Rebuilding Repairing Beautifying Painting or Wainscotting Flooring Paving or making Sash Windows for or otherwise Adorning the same or some part thereof, upon any and what promise or assurance and by whom made for his Encouragement in so doing, and for what Intent or Purpose did the Complainant Rebuild or Repair the same? declare what you know have heard or believe concerning the same.

XVIII. *Item.* Do you know have heard or can set forth any matter or thing that may be of Use or Service to the Complainant in this Cause? if you do declare and set forth the same.

John White.

John

John Phillips,
Clerk, Appellant.

Sir John Walter,
Bar^r. and Dame
Elizabeth his
Wife,
Robert Walter,
Esq; and
Nathaniel Stur-
ges, Clerk,
Respondents.

The Appellant's C A S E.

THE Right Honourable Sir *John Walter*, Bar. formerly Chief Baron of the *Exchequer*, did, some time in the Reign of his late Majesty King *Charles* the First, by some Deed or Deeds, now said to be lost, Found a Lecture, for the Preaching of One Sermon every *Sunday*, at *Churchill* in the County of *Oxon*; and did by the same Deed or Deeds, which he afterwards confirm'd by his Will, charge his Lands, at present in Possession of the Respondent Sir *John Walter*, Bar. Heir of the said Sir *John Walter*, with the Payment of the Annual Rent or Salary of Fifty Pounds, to such Person or Persons who should from time to time be duly intituled to the said Lecture.

Lecturers have been accordingly from time to time nominated and appointed, and the Fifty Pounds *per Annum* paid, without any the least Dispute, except in the Appellant's Case.

The

The Appellant was by Deed bearing Date the 16th Day of *March* 1701. and Executed by Sir *Robert Burdet*, Knt. and the Respondents Sir *John* and *Robert Walter*, Esq; (the only Persons then acting or claiming to act as Trustees under the Original Settlement,) nominated and appointed Lecturer for his Life.

The Appellant soon after such Appointment, did, with the Privy and by the Consent of the Respondent Sir *John Walter*, lay out upwards of Sixty Pounds in Repairing and Beautifying a small Tenement in *Sarsden* near *Churchill*, wherein the former Lecturers used to reside, and the Appellant, and others acting as Lecturers have since that time resided, which Tenement is and for many Years last past hath been commonly known and called by the Name of the Doctor's, or the Parson's, or Mr. *Phillips's*, or Mr. *Butterworth's* House or Chambers.

The Appellant being unhappily indebted on this and other Accounts, was under a Necessity of withdrawing himself for some time, in order to retrieve his Fortune; and the Respondent Sir *John Walter* was so well satisfy'd with the Reason of the Appellant's so withdrawing himself, that he was so kind as to assist him in his departure, and to undertake to get the Lecture duly supply'd for him in his absence, and to apply the surplus of the Money which should remain in his Hands to the Appellant's Use.

Hereupon the Appellant leaving his Deed of Nomination to the said Lecture at *Sarsden* with the Respondents Sir *John* and his Lady, went abroad in her late Majesty's Service, and continued in such Service for several Years, during all which time the Respondent Sir *John* took
care

care to have the Lecture duly supplied by sufficient Curates; which was done all along without any the least Objection or Complaint by the Parishioners, or Trustees, or any other whatsoever.

The Appellant return'd into *England* some time in the Year 1708, and assoon as her Majesty's Service did permit, repair'd to *Churchill*, and perform'd his Duty as Lecturer in Person; but some time after, her Majesty's Service requiring his Attendance elsewhere, the Appellant nominated and appointed a Curate in his stead; and doubted not in the least, but the Respondent Sir *John* wou'd have been ready to have let him into the Benefit of the Surplus, receiv'd during his absence, and suffer him to go on in the Personal Performance of his Duty as formerly: But the Respondent Sir *John*, was so far from coming to any Accompt with the Appellant, or suffering him to go on in the Performance of his Duty, that he insisted, that the Appellant had no Right to an Accompt, and together with the other Trustees in the Year 1709, turn'd him out from the Lecture, and put in one Mr. *Griffin*, who till his return, had officiated for the Appellant, as his Curate, by the Nomination and Appointment of the Respondent, Sir *John*, in Right, and for the Benefit of the Appellant.

The Appellant thinking himself highly ag-griev'd by this Proceeding, did for Three or Four Years in the most humble manner apply himself to the Respondent Sir *John* for some Relief in an Amicable way, but finding such Application wholly ineffectual, he was under a Necessity of exhibiting his Bill in the High Court

Court of *Chancery*, which he did in the Year 1714. thereby setting out his Case, and praying an Accompt, and such other Relief as should be agreeable to Equity and Good Conscience.

The Respondent Sir *John Walter*, partly on account of his Privilege, as Member of Parliament, which he at last was pleased to wave, and partly for other Reasons, declin'd for some Years putting in any Answer to the said Bill, but at last put one in, and thereby having insinuated that the Appellant had been guilty of a Gross Forgery in interlining the Words *during his Life* in his Deed of Appointment to the said Lecture, without the Privity of the Council who drew the Deed, Sir *John* principally insisted on the Appellant's not having qualified himself by reading and declaring his Assent to the Common Prayer according to the Act of Uniformity, and farther also insisted on a Clause appearing only from the Recitals of some Deed of Trust relating to the said Lecture, which Clause is to this Effect, *that the Fifty Pound per Annum shall be paid to the Lecturer of Churchill so long as he shall continue Lecturer there, and attend the Charge of diligent Preaching once every Sunday, if he should not otherwise of Necessity be hindred.*

After Witnesses had been examined on Two Commissions, the Cause came to a Hearing, and the Insinuation of Forgery was fully clear'd to the entire Satisfaction of my Lord Chancellor, it appearing, (together with many other plain Circumstances in the Appellant's Justification) that the Words *during Life* were advised by the Council who drew the Deed, and that the Interlineation of them was taken Notice of in an Indorsement, made at the time when the Deed

Cause
Heard 10
nd 11
day last.

Deed was Executed, and Witnessed by the Witnesses to the Deed. And the Objection concerning the reading the Common-Prayer was also fully Answer'd, and my Lord Chancellor upon the whole was pleas'd to declare, that the Appellant ought to have an Accompt of the Fifty Pound *per Annum* from the Respondent Sir *John* till the 24th of *March* 1709. at which time one Mr. *Griffin* was appointed Lecturer in the Appellant's room, it appearing, as his Lordship was pleas'd to declare, that before that time the said *Griffin* acted only for the Benefit of the Appellant, and as his Curate by the Appointment of the Respondent Sir *John*; but his Lordship was pleas'd to recommend it to the Appellant's Consideration whether he would insist to go into such account or submit that his Bill should stand dismis'd without Costs; and the Appellant insisting to go into the said Account, his Lordship decreed that the Respondent Sir *John* should come to an Account with the Appellant for the said Fifty Pound *per Annum*, from the time of the Appellant's being appointed Lecturer of *Churchill* aforesaid till the 24th of *March* 1709. at which time the said *Griffin* was appointed Lecturer: but as to the said Tenement of *Sarsden*, or the Relief sought touching the Appellant's being restored to the said Lecture, his Lordship declared he saw no Cause to give the Appellant any Relief, and therefore ordered that the Appellant's Bill as to all other matters except the Account above directed, should stand dismissed with Costs.

The Appellant is advised and humbly conceives himself to be aggrieved by the said Decree in regard his Bill is not only thereby Dis-

missed

missed as to any Relief sought touching a Restitution to the said Lecture, and also touching the said Tenement in *Sarsden*, but also that such Dismission is with Costs, whereas the Appellant humbly apprehends he ought to have been relieved in both the said Particulars. And therefore humbly Hopes the said Decree shall be Reversed.

First, For that it fully appears that the Lecture was duely supplied either by the Appellant in Person, or by sufficient Curate even at, and at all times before the Appellant's Deprivation, and such supply by Curate was never in the least Objected against, or Complained of, till after such Deprivation, nor any the least Notice or Intimation given to the Appellant that a Personal supply of the Lecture was necessary; but on the contrary, the Curate was from Time to Time nominated and approved of by the Respondent Sir *John*, the Heir of the Founder and principal Trustee, and the Curate so appointed at the Time of the Appellant's said Deprivation was so far from being Objected against by the Respondent Sir *John* or the other Trustees, that he was the very Person nominated in the Appellant's room.

Secondly, That there is nothing in the Nature of the Thing which indispensably requires that the Duty of such Lecture be performed in Person, and therefore if there be any such Necessity it must depend on some express Clause in the Original Foundation of the Lecture.

Thirdly, That the Clause chiefly insisted on to this Purpose, (*viz.* That the Fifty Pound *per Annum* shall be paid to the Lecturer of *Churchill* so long as he shall continue Lecturer there and attend

attend the Charge of diligent Preaching every *Sunday*, if he should not otherwise of Necessity be hindred,) is taken only from the Recitals of a Deed no way appearing to be exactly pursuant of the Original Settlement pretended to be recited, nor so much as attempted to be proved duely taken from it, and therefore ought to be of no Force to deprive the Appellant of his Freehold.

Fourthly, That the said pretended Clause is far from being expresse that the Lecturer shall be Deprivable in an Arbitrary Manner, without any previous Notice or Intimation of the Nature of his Tenure, or Summons to answer the Charge against him; and so large, unbounded, and uncommon a Power shall never be Implied, where it is not expresse.

Fifthly, That the Respondent Sir *John* standing by and consenting to the Appellant's expending so large a Sum on a House commonly reputed the Lecturer's House, was at least a great Encouragement to the Appellant to proceed in his Expences, and ought to amount to an Implied Promise of suffering him to continue in it during his Continuance in the Lecture.

It may be Objected that there is a Clause in the Recital of the Original Settlement that the Lecture shall be given to one of the best Scholars in the University of *Oxford*, by which it is said to be imply'd that he ought always to do his Duty in Person; to which the Appellant humbly answers, that granting there is such a Clause in the Original Settlement, the Intent of it cannot but be well satisfy'd by a Supply by a Curate in such manner Qualify'd as the Lecturer himself ought to be, which is the present Case, for the Trustees had so good an Opinion of our Curate,
and

and of his Abilities, that they nominated him in our room.

It may be also farther Objected, that the Respondents Sir *John* and *Robert Walter Esq;* in Depriving the Appellant and putting in another Lecturer, have done no more than what the Court of *Chancery* would have Obliged them to have done on a Bill brought for that Purpose; To which the Appellant humbly answers, that granting the Court of *Chancery* might have come into such a Decree on a Bill with proper Parties, as he humbly apprehends, for the Reasons above-mentioned, that it would not, yet it would never have made such a Decree on a Bill to which the Appellant had not been a Party, and therefore much less could the Respondents legally proceed to a Deprivation of the Appellant without giving, or at least some Way endeavouring to give, him Notice to answer for himself, which is our Case.

And for these Reasons, among others, the Appellant humbly Hopes that so much of the said Decree as orders the Appellant's Bill to be dismissed shall be reversed, and that the Appellant shall be restored to his said Lecture, and also to the said Tenement so long as he shall be Lecturer, and that such further Order shall be made in the Premises as to your Lordships shall seem proper.

*William Hawkins.
James Fenyns.*

John Phillips,
Clerk, Appellant.

Sir John Walter,
Bar^t. and Dame
Elizabeth his
Wife,
Robert Walter,
Esq; and
Nathaniel Stur-
ges, Clerk,
Respondents.

The Respondents CASE.

SIR *John Walter*, formerly Lord Chief Baron of the *Exchequer*, by Indenture dated the 29th of *September*, 2 *Car. 1^{mi}*. conveyed to Trustees, and their Heirs, certain Lands in the County of *Oxford*, to the Use of him the said Sir *John* for Life, and after his Decease, to the Trustees and their Heirs *Upon Trust*, That out of the Issues and Profits thereof they should Yearly for Ever pay unto the Parson of the Church of *Sarsden* for the Time being, the Sum of 50*l.* of lawful Money of *England*, upon the Feast Days of *St. Michael the Archangel*, and the *Annunciation of the Blessed Virgin Mary*, by even and equal Portions; and taking Notice by the said Indenture, that he had, or shortly would erect a Lecture for preaching the Word of God in the Parish Church of *Churchill*, there is this further Trust, that the Trustees likewise pay Yearly out of the

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Issues

Issues and Profits of the Premisses the like Sum of 50 l. to the Lecturer of *Churchill*, So long as he should continue Lecturer there, and attend the Charge of diligent preaching there once every Sunday, if he should not otherwise by Necessity be hindred. And by the same Indenture did declare that when the Place of Lecturer should be Void by Death, Removal or other Departure, That then the Trustees should from Time to Time chuse a new Lecturer out of the best Schollars of the University of Oxford, to be appointed out of their meer Choice, without any Suit or Means to be made to them for any Man. And by the same Indenture the said Lord Chief Baron *Walter* conveyed the Advowson of the Parish Church of *Sarsden* to the same Trustees and their Heirs Upon Trust to present the Lecturer of *Churchill* for the Time being to the said Church of *Sarsden*.

That by several Mesne Assignments, the said Trust and Premisses by Indenture dated the 23d of *July*, 1695. were vested in the Respondents *Sir John Walter*, *Robert Burdet*, and *Robert Walter*.

That in 1701. the Appellant pressed the Respondent *Sir John Walter* to get him appointed Lecturer of the said Church, and accordingly by Deed Poll dated the 16th of *March*, 1701. the Respondent *Sir John Walter*, *Sir Robert Burdet*, and *Robert Walter*, *Sir John's* Brother, appointed the Appellant to be Lecturer, which Deed was drawn and prepared by *Sir John's* then Council in *London*, and sent down into the Country to be executed. But several Words were interlined by the Appellant after the Ingrossment thereof,

thereof, and particularly these Words [*during the Term of his natural Life*] which Words, supposing them to be inserted before the Execution of the Deed, yet the Respondents insist they could give the Appellant no larger or greater Estate than what is allowed of by the Deed of Trust.

That soon after the said Appointment, the Appellant entered upon his Lectureship, but did not take Care to read Prayers at or before the Time of his first Preaching the said Lecture, which the Respondents apprehended, and were advised he ought to have done, and therefore insisted on the same by their Answer.

That for the better Accommodation of the Appellant, the Respondent Sir *John Walter* permitted him to live at his House at *Sarsden*, and to have his Dyet there, and to have the Use of an Out-building near or adjoining to the said House, usually called the *Steward's Rooms*.

That the Appellant soon afterwards, by his imprudent Conduct, contracted great Debts, and in *August 1703*. was arrested for two Debts of 42 *l.* which the Respondent Sir *John Walter*, was prevailed upon to undertake to pay, and has since paid.

That after the Appellant was set at Liberty he was pressed by some others of his Creditors, and then thought fit to withdraw himself, telling the Respondent, That he would go to his Father and endeavour to prevail with him to pay his Debts; and afterwards it was discovered, That he had run very far into Debt, as well to the Respondent

John's Domesticks, as to others; whereupon, after the Appellant's Departure, the Lecture was supply'd at easy Rates, during which Time the Respondent Sir *John*, with the Consent of those Lecturers, applied the Surplus Profits of the 50 *l. per Ann.* and more, in Discharge of the Appellant's Debts, of a * Crying Nature, without making any Advantage to himself of the 50 *l. per Ann.*

* Of what Nature more crying than what is here Specified? Had the Appellant contracted any Debts by Commuting for Sodomy, Adultery, Perjury, Fornication, Drunkenness, &c?

That about a Year and half after the Appellant was appointed Lecturer, he went beyond Sea, without the Consent, or Privy of the Respondents, where he stay'd for several Years; and having thus totally absented himself from his Lectureship, the Respondent Sir *John*, and the other Trustees by Deed of the 24th of *March*, 1709. appointed *John Griffin* to be Lecturer, and from that Time paid him the 50 *l. per Ann.* and afterwards the Respondent *Sturgis* was duly appointed Lecturer, and still continues to officiate there, and receive the 50 *l. per Ann.* Salary.

That tho' the Respondents had not seen or heard of the Appellant for several Years, yet in *June*, 1714. he thought fit to exhibit his Bill in the Court of Chancery, whereby he demanded an Account of the 50 *l. per Ann.* from the Time of his going away, and to be let into the Possession of the Lectureship, and to be paid the 50 *l. per Ann.* for the future, and likewise to have the said Rooms at Sir *John's* House settled upon him for Life, and which, by his Bill, he is pleased to call a small Ruinated Tenement in *Sarsden*; suggesting also that he had left his Deed of Appointment with the Respondent

spondent the Lady *Walter*, to be kept safe for him till his Return. To which Bill the Respondents put in their Answer, Insisting on the Matters and Circumstances aforesaid, and the Lady *Walter* denies, by her Answer, he left the Deed with her, but the same was found in the Appellant's Room after he went.

After Examination of Witnesses, the Cause came to be heard before the present Lord High Chancellor on the 10th and 11th Days of *May* last, at which Hearing, a Deed dated the 24th of *January* in the Year 1656. and other Deeds, were read, which fully recite the said Original Deed of Trust of the 29th of *September*, 2 *Car. 1^{mi.}* to the Effect aforesaid. That Original Deed being lost, and upon reading the Proofs taken in the Cause, which fully made out the Case as aforesaid, his Lordship took Time to consider of it, and to deliver his Opinion, and afterwards, upon the 28th of the same *May*, he was pleased to Decree, That the Appellant ought to have an Account of the said 50 *l. per Ann.* till such time as the said *Mr. Griffin* was appointed Lecturer, but recommended it to the Appellant's Consideration, Whether he would insist to go into such Account, or submit that his Bill should stand dismissed without Costs, and the Appellant insisting to go into the said Account, his Lordship Decreed, That it should be referred to a Master to enquire what was due to the Appellant for the said 50 *l. per Ann.* from the Time of his being appointed Lecturer, to the Time that the said *Griffin* was appointed Lecturer by the said Deed

Deed of the 24th of *March*, 1719. But the said Master was, in taking the said Account, to make the Respondent Sir *John* an Allowance of what he paid to the said *Griffin*, and all such other Persons, as during the Time aforesaid supply'd the said Cure in the Absence of the Appellant, as also for what the Respondent Sir *John* had paid for, or towards the just Debts of the Appellant; and was also to make the Respondent Sir *John* all other just Allowances, and what, upon the said Account, should be coming to the Appellant from the Respondent Sir *John* for the said 50 *l. per Ann.* After such Allowances made as aforesaid, it was Decreed, That the Respondent Sir *John* should pay the same to the Appellant at such Time and Place as the Master should direct, but as to the Rooms, or the Relief sought touching the Appellant's being restored to the said Lecture, his Lordship saw no Cause to give the Appellant any Relief, and therefore ordered that the Appellant's Bill, as to all other Matters, (except the Account directed as aforesaid) should stand dismissed, with Costs, to be taxed by the said Master, and to be paid by the Appellant to the Respondents; but as to the said Account, his Lordship reserved the Consideration of Costs relating thereto, until after the Master had made his Report.

The Appellant has Complained of the said Decree by his Appeal for two Reasons,

I. For that he is not restored to the said Lectureship.

II. That admitting the Matter of Right were against him, yet that he ought not to pay

pay Costs, either in respect of that, or his other Demands, for which his Bill is dismissed.

But the Respondent's humbly hope, That the Decree is Just and Equitable, for the Reasons following.

I. For that by the express Words, and manifest Intention of the pious Founder of the said Charity, it is provided, That the Annual Sum of 50*l.* should be paid to the Lecturer, *so long as he should attend the Charge of diligent preaching there, if he should not otherwise by Necessity be Hindred*, and it is humbly presumed that a Lecturer's Extravagance, which occasions him to withdraw himself for fear of his Creditors, can never be interpreted such a Necessity as can be pleaded in his Excuse ; and it appears, that the said Deed of Trust was, That the Lecturer of *Cburchill* was intended to be also presented to the Church of *Sarsden*, which was supposed to be a further Encouragement to him to perform the Duty personally.

II. That the Words of the Deed of Trust are, That whenever the Place of Lecturer should be void by Death, Removal, or other Departure of the said Lecturer, That then the Trustees should from Time to Time chuse a new Lecturer out of the best Schollars of the University of Oxford, so that it was intended that a Departure of the Lecturer should Entitle the Trustees to make a new Choice, and it is plain that a personal Service of this Office was intended, otherwise the Choice out of the best Schollars of the University would have been vain, if it were allowable to perform it by another.

III.

III. The Trustees by appointing another Person in the Year 1709, after Five Years and more Absence, have fully executed their Trust, and the Person now regularly appointed ought not to be removed in favour of the Appellant, who has so grossly neglected his Duty, and the words [during his natural Life] in the Appointment, tho' they were not in the Draught settled by the Council, yet, supposing they were incerted before the Execution, they could not give the Appellant any greater Title than what is allowed of by the Deed of Trust.

IV. Asto the Matter of Costs, it is humbly conceived the Decree was just for occasioning an Expence to the Respondents, upon a Demand so strange and surprizing, after a Desertion of so many Years; And as to the Demand of the two Rooms, which by the Bill are called a Ruinated Tenement, 'tis conceived there was no Colour for it, and it was the Appellant's own Obstinacy that he did not accept of the Offer that was made and recommended to him, that the Bill should be dismissed without Costs, chusing rather to put the Respondent Sir *John Walter*, to the Trouble of going into an Account, tho' it is apprehended; That by the Account given in, the Respondent Sir *John's* Answer, of the several Sums paid for the Appellant, there is nothing due to him; and as to that Account, Costs are reserved by the Decree.

For these and other Reasons, the Respondents humbly hope, That the Decree shall be affirmed, and the Appeal dismissed with Costs.

Rob. Raymond.
Tho. Lutwyche.

The Decree affirmed, but the Appeal dismissed without Costs.



